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UNAPPROVED

THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
MONDAY, OCTOBER 27, 2008
AT 2:00 P.M.
IN THE COUNCIL CHAMBERS - 12TH FLOOR

CHRONOLOGY OF THE MEETING:

The meeting was called to order by Council President Peters at 2:05 p.m. Council President Peters recessed the meeting at 3:03 p.m. for the purpose of a break. Council President Peters reconvened the meeting at 3:11 p.m. with all Council Members present. Council President Peters recessed the meeting at 5:00 p.m. for the purpose of a break. Council President Peters reconvened the meeting at 5:07 p.m. with Council Member Maienschein not present. The meeting was adjourned by Council President Peters at 7:06 p.m.

ATTENDANCE DURING THE MEETING:

- (1) Council Member Peters-present
- (2) Council Member Faulconer-present
- (3) Council Member Atkins-present
- (4) Council Member Young-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council Member Hueso-present

Clerk-Maland (sr)

FILE LOCATION:

MINUTES

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ITEM-1: ROLL CALL

Clerk Maland called the roll:

- (1) Council Member Peters-present
- (2) Council Member Faulconer-present
- (3) Council Member Atkins-present
- (4) Council Member Young-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council Member Hueso-not present

FILE LOCATION: MINUTES

ITEM-10: INVOCATION

Invocation was given by Jason Frye, Humanist Association of San Diego.

FILE LOCATION: MINUTES

ITEM-20: PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Maienschein.

FILE LOCATION: MINUTES

CLOSED SESSION ITEMS:

Conference with Legal Counsel - existing litigation, pursuant to California Government Code Section 54956.9(a):

CS-1 *City of San Jose v. Operating Engineers Local Union No. 3, et al.*
California Supreme Court Case No. S162647

REFERRED TO CLOSED SESSION OF TUESDAY, OCTOBER 28, 2008

CDCA Assigned: A. Hersh

The *City of San Jose v. Operating Engineers Local Union No. 3, et al.*, matter is a case pending before the California Supreme Court, on the following issue: Does the Public Employment Relations Board have the exclusive initial jurisdiction to determine whether certain "essential" public employees covered by Meyers-Milias-Brown Act (Cal. Government Code §§ 3500 3511) have the right to strike, or does that jurisdiction rest with the superior court? In closed session, the City Attorney will brief the Mayor and the City Council on the status of this matter and the City's Amicus Brief in support of the City of San Jose.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 6:51 p.m. - 6:51 p.m.)

Council President Peters closed the hearing.

CS-2 *Valerie O'Sullivan v. City of San Diego*
San Diego Superior Court Case No. GIC 826918; Court of Appeal Case No. 826918;

*La Jolla Friends of the Seals, et al v. National Oceanic and Atmospheric
Administration National Marine Fisheries Service, et al.*
U.S. District Court Case No. 08cv1847 WQH POR

REFERRED TO CLOSED SESSION OF TUESDAY, OCTOBER 28, 2008

DCA Assigned: G. Schaefer

In the first case, a Superior Court Judge rendered a judgment against the City and ordered the City to dredge Children's Pool Beach. The City unsuccessfully appealed the dredging order and the City is in the process of acquiring the necessary federal and state permits to dredge. In the second case, a non-profit organization and a citizen recently sued the City and the Federal Government over whether a federal permit is necessary to remove a seal colony at Children's Pool and whether a rope barrier must be installed during the seal pupping season. The City Attorney needs to discuss in closed session with the Mayor and City Council compliance with the Superior Court's dredging order, related legal issues and the status of the new federal case.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 6:51 p.m. - 6:51 p.m.)

Council President Peters closed the hearing.

**CS-3 *Citizens for Responsible Equitable Environmental Development v. City of San Diego*
San Diego Superior Court Case No. GIC871259**

*Citizens for Responsible Equitable Environmental Development, et al. v.
City of San Diego*
San Diego Superior Court Case No. GIC876017

REFERRED TO CLOSED SESSION OF TUESDAY, OCTOBER 28, 2008

DCA Assigned: M. Dickenson

These matters involve California Environmental Quality Act challenges to the City Council's approvals of condominium conversions. The City Attorney will update the Mayor and the City Council on the status of litigation closed session.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 6:51 p.m. - 6:51 p.m.)

Council President Peters closed the hearing.

Conference with Legal Counsel - anticipated litigation - significant exposure to litigation, pursuant to California Government Code Section 54956.9(b):

CS-4 Number of Potential Cases: Up to 50 (Voluntary Compliance Program Filing)

REFERRED TO CLOSED SESSION OF TUESDAY, OCTOBER 28, 2008

DCA Assigned: W. Chung

In closed session, the Mayor requests that Outside Counsel provide advice relating to the Pension System Changes included in the Voluntary Compliance Program Filing that may affect the pension benefits of employees, retirees and their beneficiaries, including, but not limited to consideration and taking possible action on the claim and settlement offer of Judie Italiano.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 6:51 p.m. - 6:51 p.m.)

Council President Peters closed the hearing.

Conference with Labor Negotiator, pursuant to Government Code Section 54957.6:

CS-5 Agency Negotiator: Scott Chadwick, Jay Goldstone

Employee Organizations: AFSCME Local 127

REFERRED TO CLOSED SESSION OF TUESDAY, OCTOBER 28, 2008

DCA Assigned: A. Hersh and B. Gersten

The Mayor and City Council will be updated on the status of negotiations regarding pension retirement contribution issues contained in Article 44 of the City-Local 127 Memorandum of Understanding.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 6:51 p.m. - 6:51 p.m.)

Council President Peters closed the hearing.

Conference with Legal Counsel - existing litigation, pursuant to California Government Code Section 54956.9(a):

**CS-6 *Friends and Concerned Citizens of University City, et al. v. City of San Diego*
SDSC No. 37-2007-00078058-CU-TT-CTL**

REFERRED TO CLOSED SESSION OF TUESDAY, OCTOBER 28, 2008

This litigation is regarding a proposed development at Costa Verde. Outside counsel will brief the City Council on the status of this matter per a requirement in the engagement contract that the City Council be updated on the progress of the case in closed session.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 6:51 p.m. - 6:51 p.m.)

Council President Peters closed the hearing.

ITEM-150: Supporting Proposition A, the San Diego County Regional Fire Protection Ballot Measure.

(See Independent Budget Analyst's Report No. 08-103; October 13, 2008, PowerPoint; County of San Diego's Analysis of Proposition A; and Sign on San Diego's article regarding Proposition A.)

TODAY'S ACTION IS:

Take the following actions:

(R-2009-535)

ADOPTED AS RESOLUTION R-304300

Supporting Proposition A, the "San Diego County Regional Fire Protection Ballot Measure";

Directing the City Attorney to prepare the appropriate resolution in accordance with Charter Section 40.

**AD HOC FIRE PREVENTION AND RECOVERY COMMITTEE'S
RECOMMENDATION:**

On 10/13/2008, Fire voted 3 to 0 to move this item to the full City Council to endorse Proposition A. (Councilmembers Peters, Maienschein, and Madaffer voted yea.)

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:11 p.m. – 3:48 p.m.)

MOTION BY HUESO TO ADOPT. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-151: City of San Diego Debt Policy, 2008. (Citywide.)

(See Report to the City Council No. 08-157; Independent Budget Analyst Reports No. 07-92 and 07-70; Chief Operating Officer's 9/18/2007, memorandum; Revised City of San Diego June 2007 Debt Policy; Department of Finance's June 2007 Debt Policy, 7/25/2007, PowerPoint, and 6/6/2007, PowerPoint.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-443 Cor. Copy) ADOPTED WITH DIRECTION AS
RESOLUTION R-304301

Accepting the updates reflected in the City of San Diego Debt Policy, 2008.

SUPPORTING INFORMATION:

In November 2007, the City Council approved the City of San Diego Debt Policy ("Debt Policy"). Consistent with the Government Finance Officers Association ("GFOA") recommended practices and with examples of debt policies of other comparable municipalities and rating agency guidelines, this formal policy established guidelines for the City pertaining to debt instruments/securities issued by the City in public or private bond markets.

The Debt Policy addresses the following: purpose and need for financing; creditworthiness objectives; types of debt; affordability targets; structure and term of city indebtedness; method of issuance and sale; financing team role and selection process; refunding considerations; and post issuance administration.

Pursuant to Resolution R-303153, passed by City Council on November 6, 2007, Debt Management was directed to return to City Council on an annual basis for a review of the Debt Policy. Recommended substantive changes are notated in the attached copy of the Debt Policy on pages 11, 14, 17, 20, 21, 29 and 37. Minor changes, such as clarifying or grammatical changes, are not notated as they do not change the context or concepts set forth in the document.

In the motion approving the Debt Policy, City Council requested that a redevelopment debt policy, a CIP prioritization policy, and a variable rate and derivatives policy all be developed and presented to the Budget and Financing Committee ("Committee") by the end of Fiscal Year 2008. At this time, the Redevelopment Agency is developing the redevelopment debt policy, and anticipates it will present the policy to City Council by the end of Fiscal Year 2009. Revised Council Policy 800-14, "Prioritizing CIP Projects" was approved by City Council on May 30, 2008 and is included in the updated Debt Policy.

Based on the City Council discussion at the January 28, 2008, meeting and training regarding the use of variable rates and derivatives, Debt Management has removed any references to these types of instruments in the Debt Policy.

Pursuant to Resolution R-303153, it was also recommended that the existing San Diego Housing Commission ("Housing Commission") Multifamily Mortgage Revenue Bond Program be reviewed and updated, as appropriate, by the end of Fiscal Year 2008. The updated Housing Commission's Multifamily Mortgage Revenue Bond Program Policy was brought to the City Council by the Housing Commission where it was reviewed, noted and filed by the City Council on September 23, 2008, and is included in the updated Debt Policy.

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Concurrent with the annual Debt Policy review, and pursuant to Resolution R-303153, Debt Management was asked to provide an informational report and include the following: a discussion of developments in the financial markets; the City's projected forward calendar for financings; schedules showing all outstanding debt of the City and related entities that are subject to the Debt Policy, and all long term liabilities of the City, including pension and retiree healthcare costs that are not subject to the Debt Policy. This information has been compiled and is provided in the full staff report.

FISCAL CONSIDERATIONS:

None specific to this action.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

The initial Debt Policy was presented to the Budget and Finance Committee (the "Committee") on June 6, 2007, July 25, 2007, and September 26, 2007. On September 26, 2007, the Committee adopted and recommended the Debt Policy to the City Council with certain changes and additions. On November 6, 2007, the City Council approved the Debt Policy.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

There were no community participation or outreach efforts.

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable): None.

Kommi/Lewis

Staff: Elizabeth Kelly – (619) 236-6932
Brant C. Will – Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 6:52 p.m. – 6:59 p.m.)

MOTION BY ATKINS TO ADOPT WITH DIRECTION TO THE INDEPENDENT BUDGET ANALYST TO TRACK THE VARIABLE RATE AND DERIVATIVES POLICY AND REPORT TO COUNCIL WHEN IT IS DEVELOPED. Second by Madaffer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-152: Resolution in Favor of Statewide Ballot Proposition 11, the Voters FIRST Act.

(See Intergovernmental Relations Department's October 3, 2008, memorandum;
and October 8, 2008, PowerPoint.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2009-474 Cor. Copy) ADOPTED AS RESOLUTION R-304302

Supporting Statewide Ballot Proposition 11, the "Voters FIRST Act";

Declaring that no public funds shall be used in the campaign for or against the
measure.

**RULES, OPEN GOVERNMENT, AND INTERGOVERNMENTAL RELATIONS
COMMITTEE'S RECOMMENDATION:**

On 10/8/2008, Rules voted 3 to 2 to support Statewide Ballot Proposition 11, Voters FIRST Act
and to send to Council a resolution in favor for the consent agenda. (Councilmembers Peters,
Frye, and Madaffer voted yea. Councilmembers Young and Hueso voted nay.)

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:11 p.m. – 2:12 p.m.)

MOTION BY MADAFFER TO ADOPT. Second by Frye. Passed by the following
vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-nay, Maienschein-yea, Frye-yea,
Madaffer-yea, Hueso-not present.

ITEM-153: Resolution Opposing Statewide Ballot Proposition 6, the Safe Neighborhoods Act.

(See Intergovernmental Relations Department's October 3, 2008, memorandum; and October 8, 2008, PowerPoint.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2009-472 Cor. Copy) ADOPTED AS RESOLUTION R-304303.

Opposing Statewide Ballot Proposition 6, the "Safe Neighborhoods Act";

Declaring that no public funds shall be used in the campaign for or against the measure.

**RULES, OPEN GOVERNMENT, AND INTERGOVERNMENTAL RELATIONS
COMMITTEE'S RECOMMENDATION:**

On 10/8/2008, Rules voted 5 to 0 to oppose Statewide Ballot Proposition 6, the Safe Neighborhoods Act, and to send to Council a resolution in opposition for the consent agenda. (Councilmembers Peters, Young, Frye, Madaffer, and Hueso voted yea.)

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:13 p.m. – 2:13 p.m.)

MOTION BY MADAFFER TO ADOPT. Second by Frye. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-not present.

ITEM-154: Resolution Opposing Statewide Ballot Proposition 8, Eliminates Right of Same-Sex Couples to Marry Act.

(See Intergovernmental Relations Department's October 3, 2008, memorandum; and Intergovernmental Relations Department's October 8, 2008. PowerPoint.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2009-473 Cor. Copy) ADOPTED AS RESOLUTION R-304304

Opposing Statewide Proposition 8, the "California Marriage Protection Act";

Declaring that no public funds shall be used in the campaign for or against the measure.

**RULES, OPEN GOVERNMENT, AND INTERGOVERNMENTAL RELATIONS
COMMITTEE'S RECOMMENDATION:**

On 10/8/2008, Rules voted 4 to 1 to oppose Statewide Ballot Proposition 8, Eliminates Right of Same-Sex Couples to Marry Act, and to send to Council a resolution in opposition for the consent agenda. (Councilmembers Peters, Frye, Madaffer, and Hueso voted yea. Councilmember Young voted nay.)

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:13 p.m. – 3:03 p.m.)

MOTION BY ATKINS TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-nay, Maienschein-nay, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-200: Two actions related to 2009 Bonds – Water System (Refunding and New Money).
(Citywide.)

(See Reports to the City Council No. 08-148 and 08-147; memorandum from Mary Lewis and Laksmi Kommi dated 10/9/2008; and memorandum from Beryl Bailey Rayford dated 10/1/2008.)

STAFF'S RECOMMENDATION:

Introduce the following ordinance in Subitem A and adopt the resolution in Subitem B:

Subitem-A: (O-2009-48) INTRODUCED AS AMENDED, TO BE ADOPTED
MONDAY, NOVEMBER 10, 2008

Introduction of an Ordinance Introduction of an Ordinance approving the form of, and authorizing the issuance of the Public Facilities Financing Authority of the City of San Diego Water Revenue Bonds, refunding Series 2009A and Series 2009B (payable solely from installment payments secured by Net System Revenues of the Water Utility Fund of the City of San Diego) and approving an indenture and first supplement thereto, approving the form and authorizing the execution and delivery of an Amended and Restated Master Installment Purchase Agreement and 2009A and 2009B Supplements thereto, and approving 2009A and 2009B Continuing Disclosure Certificates relating to Installment Purchase financings, authorizing the City Attorney to appoint bond counsel and disclosure counsel, and approving certain other agreements and actions in connection therewith.

NOTE: 6 votes required Pursuant to Section 99 of the City Charter.

Subitem-B: (R-2009-435) PENDING APPROVAL, REDOCKETED
NOVEMBER 10, 2008

Approving the form of a Preliminary Official Statement relating to an issue of Water Revenue Bonds, Refunding Series 2009A (payable solely from Installment Payments Secured by Net System Revenues of the Water Utility Fund of the City of San Diego) and a 2009A Bond Purchase Agreement, and approving certain other actions in connection therewith.

STAFF SUPPORTING INFORMATION:

The 2009A Water Bonds will refund the \$57 million principal of the Water Revenue Notes, Series 2007A, which are due on January 30, 2009, and refund certain maturities of the 1998 Water Revenue Certificates if that results in a net present value savings of at least 3%, consistent with the City's Debt Policy. The legal documents authorize the issuance of the 2009A bonds in an amount not to exceed \$309 million. Of this amount, \$245 million authorizes to refund the outstanding 1998 Certificates. The City will only refund portions of the 1998 Certificates which are cost effective under the market conditions present at the time of the pricing of the bonds.

The 2009B Water Bonds would refund the \$150 million principal of the Water Revenue Notes, Series 2008A, and fund the requirements of the CIP Program through approximately June 2010 in an amount of \$150 million. Issuing the 2009 Bonds in two series (2009A and 2009B) enables the City to borrow funds no earlier than the time the proceeds are needed. The financing documents submitted for the City Council approval include: the Indenture, First Supplement Indenture, Amended and Restated Master Installment Purchase Agreement (MIPA), 2009A and 2009B Supplement to the MIPA, 2009A and 2009B Continuing Disclosure Certificates, 2009A Bond Purchase Agreement, 2009A Preliminary Official Statement (POS), and the 2009 Bonds City Ordinance and 2009A Resolution approving the Preliminary Official Statement and the Bond Purchase Agreement. The details of each document are described more fully in the Staff Report.

Only the 2009A Bonds can be sold through the proposed Council actions. Staff will return to the City Council requesting approval of the 2009B Preliminary Official Statement and the Bond Purchase Agreement prior to the issuance of the 2009B Bonds.

An extensive preparation and review process was undertaken in developing the 2009A Preliminary Offering Statement (POS), the marketing document for the 2009A Bonds. In accordance with the Controls and Procedures established by the Disclosure Practices Working Group (DPWG), a Financing Group consisting of the Disclosure Counsel, City Disclosure Counsel, Financial Advisor, City Attorney's Office, Debt Management, and Water Department staff, identified all the informational requirements for the long term public bond offering of the Water enterprise and methodically developed the document over a 6-8 month period. An engineering and financial feasibility study on the bond offering was conducted and the findings were disclosed in the POS.

The 2009A Financing Team consisting of the Financing Group described above, the bond counsel, and the underwriting syndicate reviewed the form and the content of the POS at various Financing Team document review sessions. Finally, the Disclosure Practices Working Group (DPWG) reviewed the document in August and on October 1, and 2, 2008, and authorized the docketing of the POS for the City Council approval. Consistent with the DPWG Controls and Procedures, necessary certifications from various officials involved in the preparation or review of the disclosures including the Mayor, the City Attorney, and the Chief Financial Officer, will be distributed to the City Council prior to the Council hearing.

FISCAL CONSIDERATIONS:

Based on interest rates as of October 2, 2008, the portion of the 2009A Bonds used to repay the 2007A Notes is an estimated \$62.7 million. The annual estimated debt service is \$4.4 million with an estimated total debt service of \$132.6 million over a 30-year term. For comparison purposes, the City Council authorized not-to-exceed interest rate of 7.00%, the annual debt service on the bonds is estimated to be \$5.1 million with the total annual debt service at \$152 million over a 30-year term.

Assuming the entire outstanding principal on the 1998 Certificates is refunded with the 2009A or 2009B Bonds generating at least 3% in net present value savings, the new annual debt service will be an estimated \$12.1 million, FY 2010-FY 2015, and \$25.3 million, FY 2016-FY 2029, which is approximately \$800,000 lower than the current annual debt service on the 1998 Certificates. The repayment term on the refunded portion will remain unchanged at 21 years.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The Water Department conducted Proposition 218 noticing process as part of the approval for the rate increases necessary to support bond issuances projections from FY 2009 to FY 2011. Pursuant to Proposition 218, the City provided property owners 45 days of advance notice of the Council's formal consideration of the rate increases. Notices were mailed to property owners of record and City of San Diego water bill customers, advising them that the City Council would hold hearings on February 26, 2007, to consider adoption of the proposed water rate increases. The hearings were held as scheduled and the rate increases were subsequently approved by the Council.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Business entities involved in this transaction are Morgan Stanley & Co., and J.P. Morgan Securities Inc. (co-senior managers); Estrada Hinojosa, Ramirez & Co., Inc. and Siebert Branford Shank & Co. LLC (co-managers); Hawkins Delafield & Wood LLP (disclosure counsel); Nixon Peabody LLP. (underwriters' counsel); Fulbright & Jaworski LLP (bond counsel); Wells Fargo Bank, National Association (trustee); CDM (feasibility consultant), and Montague DeRose and Associates LLC (financial advisor).

Kommi/Lewis

Aud. Cert. 2900263.

Staff: Michael J. Frattali - (619) 235-5834
Lourdes M. Epley - Deputy City Attorney

FILE LOCATION: Subitem A: None
Subitem B: Meet

COUNCIL ACTION: (Time duration: 3:52 p.m. – 6:50 p.m.)

MOTION BY MADAFFER TO INTRODUCE THE ORDINANCE IN SUBITEM A AS AMENDED BY CHANGING THE INTEREST RATE LIMITATION FROM 7 PERCENT TO 10 PERCENT AND ADOPT STAFF'S RECOMMENDATION. Second by Faulconer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-201: Delegation of Authority to the City Treasurer to Invest Funds. (Citywide.)

(See City Treasurer's Investment Policy, Pooled Investment Funds dated November 2008.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-470) ADOPTED AS RESOLUTION R-304306

Accepting the City Treasurer's Investment Policy for the Pooled Investment Fund dated November 2008;

Delegating the authority to invest or to reinvest the City's Operating and Capital Improvement Funds to the City Treasurer for a period of one year commencing on November 20, 2008, and expiring on November 20, 2009, provided, however, that the Treasurer shall make monthly reports to this City Council about such transactions.

STAFF SUPPORTING INFORMATION:

The California Government Code (CGC) has vested authority with the City Council to invest or to reinvest funds of the City or to sell or exchange securities purchased. Under CGC Section 53607, the City Council may delegate this authority to the City Treasurer for a period of one (1) year. Prior to the enactment of this superseding legislation in 1997, the City Treasurer had the authority to invest the funds of the City under CGC Section 53635 and City Charter Section 45. The City Council now annually delegates this authority to the City Treasurer. City Council Resolution R-303199, adopted on November 20, 2007, was the last time the Council delegated this authority.

The City Treasurer has an established Investment Policy which is annually presented to Council for acceptance per CGC §53646. The foremost objective of the Investment Policy is the safety of principal. This objective helps mitigate market risk by investing primarily in the highest rated U.S. government debt. The secondary objective of the Investment Policy is liquidity which is attained through the separation of the City's Investment Pool into two portfolios (Core & Liquidity). The Liquidity portfolio is designed and invested in securities that will meet the City's anticipated cash flow needs for the next six months consistent with CGC §53646.

On September 30, 2008, the Investment Advisory Committee recommended approval of the City's investment Policy with its proposed change. The City Treasurer and Investment Division staff report semi-annually the results of the portfolio performance, investment strategy, and any proposed changes to the investment Policy to the Investment Advisory Committee, which was established in 1990.

Changes to the proposed 2008 Investment Policy include:

1. Page 6, Section VII. Removal of the language requiring the City Treasurer to submit a copy of the Investment Policy and investment reports to the California Debt and Investment Advisory Commission.

This change is being proposed due to the passage of California S.B. 1124, which eliminates this requirement.

FISCAL CONSIDERATIONS:

There would be no fiscal impact associated with the request.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: Not applicable.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: Not applicable.

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable): Not applicable.

Granewich/Lewis

Staff: Kent Morris - (619) 533-6313
Lourdes M. Epley - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 6:59 p.m. – 7:06 p.m.)

MOTION BY MADAFFER TO ADOPT. Second by Frye. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-202: The Boulevard Extension of Time, Project No. 152601. An application for an Extension of Time request for Site Development Permit and Vesting Tentative Map, Easement Abandonment and Public Right-of-Way Vacation. (Greater North Park Community Plan Area. District 3.)

Matter of approving, conditionally approving, modifying, or denying an application for an Extension of Time request for an approved but not yet utilized Site Development Permit and Vesting Tentative Map, Easement Abandonment and Public Right-of-Way Vacation which authorized the demolition of existing structures and the construction of a six-story, mixed-use project with 175 residential units (including affordable units) and commercial/office space on a 1.54-acre site located on the north side of El Cajon Boulevard, between Florida and Alabama Streets, in the CL-1 and MR-800B Zones of the Mid-City Communities Planned District, within the Greater North Park Community Plan Area, Council District 3.

(See Report to Planning Commission No. PC-08-049/Site Development Permit No. 540162/Vesting Tentative Map No. 540163/Easement Abandonment No. 576335/Public Right-of-Way Vacation No. 576332/Project No. 152601.)

STAFF'S RECOMMENDATION:

Take the following actions:

Subitem-A: (R-2009-346) ADOPTED AS AMENDED AS RESOLUTION R-304307

Granting approval of Site Development Permit No. 143667, to allow a three (3) year extension of time for Site Development Permit No. 540162, the Boulevard project;

Certifying findings supported by minutes, maps and exhibits, all of which are herein incorporated by reference, with respect to Site Development Permit No. 540162, an extension of time to Site Development Permit No. 143667;

That Site Development Permit No. 540162, an extension of time to Site Development Permit No. 143667, is granted to AMPROP North Park, LLC, Owner/Permittee under the terms and conditions set forth in the permit attached hereto and made a part hereof;

Directing the City Attorney to prepare the appropriate resolution according to Section 40 of the City Charter.

Subitem-B: (R-2009-347) ADOTPED AS RESOLUTION R-304308

Certifying findings supported by minutes, maps and exhibits, all of which are herein incorporated by reference, with respect to Vesting Tentative Map No. 540163, which is an Extension of Time for Vesting Tentative Map No. 172036, Public Right-of-Way Vacation No. 576332, which is an Extension of Time for Public Right-of-Way Vacation No. 143669 and Easement Abandonment No. 576335, which is an Extension of Time for Easement Abandonment No. 188003;

That, based on the Findings hereinbefore adopted by the City Council, Vesting Tentative Map No. 540163, including the waiver of the requirement to underground existing overhead utilities, Public Right-of-Way Vacation No. 576332, and Easement Abandonment No. 576335, which are Extensions of Time for previously approved permits, are hereby granted to AMPROP NORTH PARK LLC, Applicant/Subdivider;

Directing the City Attorney to prepare the appropriate resolution according to Section 40 of the City Charter.

OTHER RECOMMENDATIONS:

Planning Commission on August 7, 2008, voted 5-0-2, to approve.

Ayes: Naslund, Griswold, Ontai, Otsuji, Golba
Not present: Schultz, Smiley

The Greater North Park Community Planning Group has recommended approval of this project.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

A three-year Extension of Time for a previously approved mixed-use development consisting of 175 residential units, including onsite affordable housing and commercial space on a 1.54-acre site located on the north side of El Cajon Boulevard, between Florida Street and Alabama Street, within the Greater North Park Community Plan area.

STAFF RECOMMENDATION:

Recommend that the City Council approve the Extension of Time for Site Development Permit No. 540162, Vesting Tentative Map No. 540163, Public Right-of-Way Vacation No. 576332 and Easement Abandonment No. 576335, to allow a three-year Extension of Time to Site Development Permit No. 143667, Vesting Tentative Map No. 172036, Public Right-of-Way Vacation No. 143669 and Easement Abandonment No. 188003.

EXECUTIVE SUMMARY:

The 1.54-acre site is located on the north side of El Cajon Boulevard between Florida Street and Alabama Street, in the CL-1 and MR-800B zones of the Mid-City Communities Planned District Ordinance, the Transit Area Overlay Zone, the Residential Tandem Parking Area Overlay Zone and the FAA Part 77 Noticing area, within the Greater North Park Community Plan area. Approval of the requested Extension of Time would extend the expiration date of the previously approved permits by three years.

The previously approved project allowed the demolition of existing structures and the construction of a seven-story, mixed-use structure with 180 residential units (including seven live/work units) and two commercial units. The project also included 308 structured parking spaces and the provision of onsite affordable housing units, as described in detail in the attached Planning Commission Report No. PC-05-069, dated March 3, 2005 (Attachment 5).

On September 12, 2006, the applicant requested a Substantial Conformance Review (SCR), which was approved by Development Services on October 18, 2007. This SCR allowed a reduction of five residential units, for a total of 175 units where 180 units were previously approved and allowed 96 one-bedroom units where 60 units were previously approved and 72 two-bedroom units where 113 were previously approved. The seven live/work units and two commercial units would remain part of the project. This reduction in units resulted in the removal of one story, creating four residential stories above parking where five stories were previously approved. The unit reduction also created a new parking requirement of 267 spaces where 304 spaces were previously required. The applicant would provide 278 parking spaces, which is 11 spaces more than required.

The SCR also included a clarification of the inclusionary housing requirements for this project. The original Site Development Permit included a condition that the applicant provide 27 for-sale affordable housing units, to be available to households earning between 100 and 120 percent of the Area Median Income (AMI). The approved SCR clarified that the applicant could also satisfy the affordable housing requirement by providing for-rent affordable housing units to households earning between 50 and 60 percent AMI.

This option is allowed under the Inclusionary Housing Ordinance and was reviewed and approved by Development Services and by San Diego Housing Commission staff.

The Site Development Permit Resolution and the Vesting Tentative Map Resolution included with this Extension of Time application have been updated to reflect the approved SCR described above.

FISCAL CONSIDERATIONS:

All costs associated with processing this project are recovered from a deposit account maintained by the applicant.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

On April 19, 2005, the City Council voted 9-0 to approve the project.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Planning Commission: On March 10, 2005, the Planning Commission voted 6-0-0 to recommend approval of the project to the City Council. On August 7, 2008, the Planning Commission voted 5-0-2, on consent, to recommend approval of the Extension of Time request to the City Council.

Community Planning Group: On January 18, 2005, the Greater North Park Community Planning Group voted 12-0-1 to recommend approval of the project. On June 17, 2008, the Greater North Park Community Planning Group voted 11-0-0 to recommend approval of the Extension of Time request.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

AmProp North Park, LLC, Owner & American Property Enterprises, Applicant

Broughton/Anderson/PG

NOTE: The Extension of Time is covered under The Boulevard, Permit no. 143667. The project is adequately addressed in Mitigated Negative Declaration No. 49662, dated February 15, 2005. There are no changes in circumstances, additional information or project changes to warrant additional environmental review. Therefore, The Extension of Time is not a separate project for purposes of CEQA review pursuant to State CEQA Guidelines Section 15060(c)(3).

Staff: Paul Godwin – (619) 446-5103

NOTE: This item is not subject to the Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:49 p.m. – 3:50 p.m.)

MOTION BY ATKINS TO ADOPT STAFF'S RECOMMENDATION AS AMENDED BY ADDING A CONDITION TO THE PERMIT NOT ALLOWING ANY IN-LIEU FEE. Second by Young. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

REPORT OUT OF CLOSED SESSION:

None.

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Council President Peters at 7:06 p.m.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 7:06 p.m. – 7:06 p.m.)

THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
TUESDAY, OCTOBER 21, 2008
AT 9:00 A.M.
IN THE COUNCIL CHAMBERS - 12TH FLOOR

CHRONOLOGY OF THE MEETING:

The meeting was called to order by Council President Peters at 10:01 a.m. The meeting was recessed by Council President Peters at 11:30 a.m.

The meeting was reconvened by Council President Peters at 2:05 p.m. with Council Member Hueso not present. Council President Peters recessed the meeting at 2:27 p.m. to convene the Redevelopment Agency. Council President Peters reconvened the regular meeting at 2:34 p.m. with all Council Members present. Council President Peters recessed the meeting at 2:36 p.m. to reconvene the Redevelopment Agency. Council President Peters reconvened the regular meeting at 2:37 p.m. with all Council Members present. Council President Peters recessed the meeting at 3:58 p.m. for the purpose of a break. Council President Peters reconvened the meeting at 4:06 p.m. with Council Member Maienschein not present. Council President Peters recessed the meeting at 5:19 p.m. for the purpose of a break. Council President Peters reconvened the meeting at 5:24 p.m. with Council Member Faulconer and Council Member Maienschein not present. The meeting was adjourned by Council President Peters at 6:57 p.m.

ATTENDANCE DURING THE MEETING:

- (1) Council Member Peters-present
- (2) Council Member Faulconer-present
- (3) Council Member Atkins-present
- (4) Council Member Young-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present

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for the Regular Meeting of Tuesday, October 21, 2008

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(8) Council Member Hueso-present

Clerk-Maland (dlc/mz)

FILE LOCATION: MINUTES

ITEM-300: ROLL CALL

Clerk Maland called the roll:

- (1) Council Member Peters-present
- (2) Council Member Faulconer-present
- (3) Council Member Atkins-present
- (4) Council Member Young-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council Member Hueso-present

NON-AGENDA COMMENT:

PUBLIC COMMENT-1:

Don Stillwell commented on prayer and the flag salute.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:47 a.m. – 10:49 a.m.)

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PUBLIC COMMENT-2:

Nancelle Lauffer commented on the homeless, poor and mentally ill.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:50 a.m. – 10:53 a.m.)

PUBLIC COMMENT-3:

Cricket Bradburn commented on the poor.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:53 a.m. – 10:56 a.m.)

PUBLIC COMMENT-4:

Tom Condelles commented on complaints with the Metropolitan Transit System.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:57 a.m. – 11:00 a.m.)

PUBLIC COMMENT-5:

Phil Hart commented on the budget and ethics.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:00 a.m. – 11:03 a.m.)

PUBLIC COMMENT-6:

Tim Clark commented on alternative transportation.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:03 a.m. - 11:06 a.m.)

PUBLIC COMMENT-7:

April Valdez commented on pancreatic cancer.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:06 a.m. - 11:09 a.m.)

PUBLIC COMMENT-8:

Izean Rim Jr. commented on public safety.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:09 a.m. - 11:09 a.m.)

PUBLIC COMMENT-9:

Gary Abbamonte and Salvatore D'Anna commented on the Hyatt Mission Bay Lease.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:09 a.m. - 11:12 a.m.)

PUBLIC COMMENT-10:

Joy Sunyata commented on the budget.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:12 a.m. - 11:15 a.m.)

PUBLIC COMMENT-11:

Joey Rocano commented on a waiver.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:19 a.m. - 11:22 a.m.)

PUBLIC COMMENT-12:

Cynthia Conger commented on City planning.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:23 a.m. - 11:26 a.m.)

PUBLIC COMMENT-13:

Elinor Rector commented on culture issues.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:26 a.m. - 11:28 a.m.)

PUBLIC COMMENT-14:

David Ross commented on the displaced in San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:29 a.m. - 11:29a.m.)

COUNCIL COMMENT:

COUNCIL COMMENT-1:

Council Member Young thanked the San Diego Fire Department for their prompt service taking care of a recent fire in his community.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 10:46 a.m. – 10:46 a.m.)

INDEPENDENT BUDGET ANALYST COMMENT:

None.

CITY ATTORNEY COMMENT:

None.

ITEM-30: Bird Rock Leaders Day.

COUNCIL PRESIDENT PETERS' RECOMMENDATION:

Adopt the following resolution:

(R-2009-440) ADOPTED AS RESOLUTION R-304270

Commending the Bird Rock (BR) community leaders and citizens, for their contributions, ideas and commitment to foster and maintain a solid neighborhood identity and promote sustainable development;

Proclaiming October 21, 2008, to be "Bird Rock Leaders Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:19 a.m. – 10:27 a.m.)

MOTION BY HUESO TO ADOPT. Second by Peters. Passed by the following vote:
Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea,
Madaffer-yea, Hueso-yea.

ITEM-31: Rancho Bernardo Local Assistance Center Day.

COUNCILMEMBER MAIENSCHIN'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-438) ADOPTED AS RESOLUTION R-304271

Proclaiming October 21, 2008, as "Rancho Bernardo Local Assistance Center Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:01 a.m. – 10:19 a.m.)

MOTION BY MAIENSCHIN TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-32: Keith Rhodes Day.

COUNCILMEMBER FRYE'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-302) ADOPTED AS RESOLUTION R-304272

Proclaiming October 21, 2008, to be "Keith Rhodes Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:27 a.m. - 10:33 a.m.)

MOTION BY FRYE TO ADOPT. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

- * ITEM-50: Contract Change Order No. 2 with Nature's Image, Inc., for the Rancho Mission Canyon Wetland Enhancement Project. (Navajo Community Area. District 7.)

(See Metropolitan Wastewater Department's 7/22/2008, Executive Summary Sheet.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 10/7/2008, Item 51. (Council voted 8-0):

(O-2009-38) ADOPTED AS ORDINANCE O-19790 (New Series)

Authorizing the Mayor, or his designee, to execute Contract Change Order No. 2 and approving Contract Change Order No. 2 to the contract with Nature's Image, Inc. for the Rancho Mission Wetland Enhancement, under the terms and conditions to provide a time extension of 1512 days and to add an additional \$262,078.76 to the contract;

Authorizing an amount not to exceed \$262,078.76 from Sewer Fund 41506, Dept. 776, Org. 725, solely and exclusively, to provide funds for Change Order No. 2;

Declaring that the above activity is exempt from the California Environmental Quality Act pursuant to CEQA Guidelines Section 15378(c). This activity is a subsequent discretionary approval covered under Program EIR, PTS No. 6020, dated December 15, 2003. This activity is adequately addressed in the environmental document and there is no change in circumstance, additional information, or project changes to warrant additional environmental review pursuant to CEQA Guidelines Section 15162.

NOTE: 6 votes required pursuant to Section 99 of the City Charter.

FILE LOCATION: CONT – NATURE'S IMAGE, INC.

COUNCIL ACTION: (Time duration: 10:34 a.m. – 10:37 a.m.)

CONSENT MOTION BY MADAFFER TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-not present, Frye-yea, Madaffer-yea, Hueso-yea.

- * ITEM-51: New Lease Agreement with Rancho De La Loma, LLC. (San Pasqual Valley Community Area. District 5.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 10/7/2008, Item 52. (Council voted 8-0):

(O-2009-45) ADOPTED AS ORDINANCE O-19791 (New Series)

Authorizing the Mayor, or his designee, to execute a 15-Year Percentage Lease with Rancho De La Loma, LLC for approximately 64 acres located in the San Pasqual Valley Agricultural Preserve.

NOTE: 6 votes required pursuant to Section 99 of the City Charter.

FILE LOCATION: LEASE – RANCHO DE LA LOMA, LLC.

COUNCIL ACTION: (Time duration: 10:34 a.m. – 10:37 a.m.)

CONSENT MOTION BY MADAFFER TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-not present, Frye-yea, Madaffer-yea, Hueso-yea.

- * ITEM-52: Agreement with NextG Networks, Inc., for the Conversion of Overhead Facilities to Underground Service.

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 10/7/2008, Item 53. (Council voted 8-0):

(O-2009-25) ADOPTED AS ORDINANCE O-19792 (New Series)

Authorizing the Mayor to execute, for and on behalf of the City, an Agreement with NextG Networks, Inc., for an amount not to exceed \$500,000 for the relocation of overhead facilities to underground service, under the terms and conditions set forth in the Agreement, together with any reasonably necessary modifications or amendments thereto which do not increase project scope or cost and which the Mayor shall deem necessary from time to time in order to carry out the purposes and intent of this Project and Agreement;

Declaring that this activity is not a "project" and is therefore not subject to CEQA pursuant to State CEQA Guidelines Section 15060(c)(3).

NOTE: 6 votes required pursuant to Section 99 of the City Charter.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:34 a.m. – 10:37 a.m.)

CONSENT MOTION BY MADAFFER TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-not present, Frye-yea, Madaffer-yea, Hueso-yea.

- * ITEM-53: Exempting a Program Manager Position from the Classified Service in the Library Department.

(See memoranda from Hadi Dehghani dated 7/17/2008 and 6/27/2008.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 10/7/2008, Item 54. (Council voted 8-0):

(O-2009-37) ADOPTED AS ORDINANCE O-19793 (New Series)

Exempting from the Classified Service a Program Manager Position in the Library Department and declaring it to be in the Unclassified Service of the City of San Diego, pursuant to Section 117(a)17 of the City Charter, after having been reviewed and commented upon favorably by the Civil Service Commission on July 3, 2008, as meeting the Charter criterion for exemption from the classified service, and after having considered and reviewed the Report thereon from the Personnel Director to the Council President and City Council dated July 17, 2008.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:34 a.m. – 10:37 a.m.)

CONSENT MOTION BY MADAFFER TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-not present, Frye-yea, Madaffer-yea, Hueso-yea.

- * ITEM-54: Amendments to San Diego Municipal Code Sections 26.0701-26.0730, Commission for Arts and Culture. (Citywide.)

(See Report to the City Council No. 08-136; Amended/Proposed version of SDMC 26.0701 et seq., and strike-out version, dated May 29, 2008; Commission for Arts and Culture PowerPoint; S.D. Arts and Culture Policy Recommendations with CPI's August 28, 2007, report; and Report from the City Attorney dated 9/4/2008.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 10/7/2008, Item 55. (Council voted 8-0):

(O-2009-21 Cor. Copy) ADOPTED AS ORDINANCE O-19794
(New Series)

Amending Chapter 2, Article 6, Division 7, of the San Diego Municipal Code, by amending Section 26.0701 through Section 26.0704; by amending and renumbering Section 26.0705 to Section 26.0721, Section 26.0706 to Section 26.0714, Section 26.0707 to Section 26.0715, Section 26.0708 to Section 26.0716, Section 26.0709 to Section 26.0717, Section 26.0710 to Section 26.0718, Section 26.0711 to Section 26.0719 and Section 26.0712 to Section 26.0720; and by adding Section 26.0713 through Section 26.0728, all relating to the Commission for Arts and Culture. These amendments and additions: (1) set forth and clarify the respective duties and functions of the Commission, the Executive Director, and Commission staff; (2) formally establish the Executive Director as the steward for the City's art collection; (3) improve the process for acquiring and documenting art; and (4) clarify conflict of interest requirements and appointment procedures for Commissioners.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:34 a.m. – 10:37 a.m.)

CONSENT MOTION BY MADAFFER TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-not present, Frye-yea, Madaffer-yea, Hueso-yea.

- * ITEM-55: Amendments to the Election Campaign Control Ordinance and Municipal Lobbying Ordinance.

(See memorandum from City Attorney dated 10/1/2008; memorandum from Ethics Commission's dated 8/20/2008; Ethics Commission's Update of Proposed Amendments dated 9/2/2008; and memorandum from Guillermo Cabrera and Stacey Fulhorst dated 9/12/2008.)

CITY COUNCIL'S RECOMMENDATION:

On October 6, 2008, Item 151, Council voted as follows:

1. Motion by Councilmember Frye, second by Councilmember Young, to introduce the ordinance with the exception of the third filing report and the contribution limit changes. (Council voted: Unanimously; all present.)
2. Motion by Councilmember Frye second by Councilmember Atkins, to adopt the third campaign filing report recommendation. (Council voted: 1, 2, 3, 5, 6-yea; 4, 7, 8-nay.)
3. Motion by Councilmember Hueso second by Council President Pro Tem Madaffer, to increase the campaign contribution limits to \$500 (increasing lobbyist fundraising disclosure or Profession Expense Fund contribution limits accordingly.) (Council voted: 1, 2, 4, 7, 8-yea; 3, 5, 6-nay.)

Adopt the following ordinance which was introduced as amended on 10/6/2008, Item 151:

(O-2009-42 Rev.) ADOPTED AS ORDINANCE O-19795 (New Series);
RECOMMENDATION NO. 2 RECONSIDERED IN
AFTERNOON MEETING

Amending Chapter 2, Article 7, Division 29 of the San Diego Municipal Code by amending Sections 27.2903, 27.2911, 27.2912, 27.2916, 27.2917, 27.2924, 27.2925, 27.2930, 27.2935, 27.2936, 27.2937, 27.2938, 27.2939, 27.2945, and 27.2960; retitling and amending Sections 27.2965, 27.2966, 27.2967, 27.2968, and 27.2969; and amending Section 27.2971, relating to the City of San Diego Election Campaign Control Ordinance; and amending Chapter 2, Article 7, Division 40 of the San Diego Municipal Code by amending Section 27.4002, relating to Campaign Fundraising Disclosures under the City's Municipal Lobbying Ordinance.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:34 a.m. – 10:37 a.m.;
6:47 p.m. – 6:49 p.m.)

CONSENT MOTION BY MADAFFER TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-not present, Frye-yea, Madaffer-yea, Hueso-yea.

MOTION BY MADAFFER TO RECONSIDER COUNCIL RECOMMENDATION NO. 2 RELATING TO THE THIRD CAMPAIGN FILING REPORT. Second by Frye. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

MOTION BY FRYE TO ADOPT COUNCIL RECOMMENDATION NO. 2 RELATING TO THE THIRD CAMPAIGN FILING REPORT. Second by Faulconer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-nay, Maienschein-yea, Frye-yea, Madaffer-nay, Hueso-nay.

- * ITEM-56: Nancy Ridge Business Park, Project No. 114358. Rezone located on the south side of Nancy Ridge Drive, south of Carroll Canyon Road intersections, and north of the Coaster railway. (Mira Mesa Community Plan Area. District 5.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 10/7/2008, Item 335, Subitem C. (Council voted 8-0):

(O-2009-40) ADOPTED AS ORDINANCE O-19796 (New Series)

Rezoning 13.95 acres located within the Mira Mesa Community Plan Area from the AR-1-1 Zone into the IL-2-1 Zone, as defined by San Diego Municipal Code Section 131.0603; And repealing Ordinance No. 18451 (New Series), adopted December 9, 1997, of the Ordinances of the City of San Diego insofar as the same conflicts herewith.

NOTE: This item is not subject to the Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:34 a.m. – 10:37 a.m.)

CONSENT MOTION BY MADAFFER TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-not present, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-100: Inviting Bids for the Slurry Seal, Group I, Fiscal Year 2009 Project.

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-320) ADOPTED AS RESOLUTION R-304273

Approving the plans and specifications for Slurry Seal, Group I, Fiscal Year 2009 (Project), on Work Order No. 576510;

Authorizing the Mayor, or his designee, after advertising for bids in accordance with law, to award a contract for the above Project to the lowest responsible and reliable bidder in an amount not to exceed \$5,785,500;

Authorizing the expenditure of an amount not to exceed \$6,090,000, solely and exclusively, to provide funds for the above contract, contingency, and related costs, to be expended as follows: \$5,800,000 from Street Division General Fund No. 100 and \$290,000 from Underground Surcharge Fund No. 30101, CIP-37-028.0, Annual Allocation - Utilities Underground Program;

Authorizing the Mayor, or his designee, to exercise an option to extend the contract to slurry seal additional streets in an amount not to exceed \$5,785,500, contingent on the availability of additional funding and provided that the City Comptroller furnishes one or more certificates demonstrating that the funds necessary for expenditure are, or will be, on deposit with the City Treasurer;

Authorizing the City Comptroller to transfer excess budgeted funds, if any, to the appropriate reserves on advice from the administering department;

Declaring that this activity is exempt from the California Environmental Quality Act pursuant to CEQA Guidelines Section 15301(c) as the repair, maintenance, or minor alteration of existing streets, sidewalks, gutters, and similar facilities.
(BID-K094471)

STAFF SUPPORTING INFORMATION:

This Slurry Seal Contract is the second of the FY 2009 Street Resurfacing Maintenance Contracts, and will provide for the repair and slurry sealing of 67.3 miles of asphalt streets. Of this total, 64.1 miles are part of the City's Street Maintenance Program for FY 2009 and 3.2 miles are part of the City's Utilities Underground Program in partnership with the Engineering and Capital Projects Department. Locations for the Annual Street Maintenance Program are chosen through the use of pavement condition surveys and the City's pavement management system using the following criteria: age, oxidation, cracking, amount of patching, street classifications and average daily traffic, and avoiding conflicts with any planned underground utility work.

Slurry seal is a pavement surface treatment applied as part of a comprehensive pavement maintenance program. It is used on streets which are in good condition to protect them from deterioration. Any failed areas of the pavement will be removed and repaired prior to application of slurry seal. The Street Division uses rubberized emulsion aggregate slurry (REAS). This type of slurry seal coating lasts longer, resists damage from water, and retains its black color longer. Slurry sealing, when used in a timely manner, can be very effective in reducing the future need for more expensive pavement repairs.

The list of streets in this Slurry Seal Plan for FY 2009 is attached, but may be revised prior to award of contract in order to avoid any construction conflicts. Construction for this Project is expected to begin in April 2009, and take approximately 9 months to complete. In addition to the construction contract costs of \$5,785,500, and project contingency costs of \$121,800, the following administrative costs are also included: \$90,000 for project management, and \$92,700 for construction management, for a total project cost of \$6,090,000.

EQUAL OPPORTUNITY CONTRACTING:

Funding Agency: City of San Diego - Prevailing wages does not apply to this contract (No State or Federal Funding sources).

Goals: 21% Mandatory Subcontractor Participation Goal, 7% Advisory Participation Goal Disadvantaged Business Enterprise (DBE), 1% Advisory Participation Goal Disabled Veteran Business Enterprise (DVBE), 13% Advisory Participation Goal Other Business Enterprise (OBE).

Other: Prior to award, a workforce report, and if necessary, an Equal Opportunity Plan shall be submitted. Staff will monitor the Plan and adherence to the Nondiscrimination Ordinance. EOC staff will evaluate the bidder's compliance with SCOPe. Failure to comply with SCOPe will lead to the bid being declared non-responsive. This contract will be advertised for bids in the San Diego Daily Transcript, the City of San Diego's website, and the E-Bid Board. In addition, once implemented, the Bidder Registration Program will notify registered participants of bid opportunities. Prior to implementation of the Bidder Registration Program, the City will notify trade associations and eligible firms via fax and/or email.

FISCAL CONSIDERATIONS:

Funding in the amount of \$6,090,000 is available as follows: \$5,800,000 is allocated from Prop 1B into Street Division General Fund 100, and \$290,000 from CIP-37-028.0, Annual Allocation, Utilities Underground Program, Underground Surcharge Fund 30101.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The list of streets to receive slurry seal is part of the FY 2009 Resurfacing Plan.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

After the Contract is awarded, citizens will be notified by the contractor when slurry sealing will begin on their specific street.

Sierra/Jarrell

Aud. Cert. 2900207.

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Staff: Kim LaSelle - (619) 527-5455
Thomas C. Zeleny - Deputy City Attorney

FILE LOCATION: W.O. 576510

COUNCIL ACTION: (Time duration: 10:34 a.m. – 10:37 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT THE RESOLUTION. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-not present, Frye-yea, Madaffer-yea, Hueso-yea.

- * ITEM-101: Inviting Bids for the Construction of South Mission Valley Trunk Sewer Project. (Mission Valley Community Area. Districts 2, 3, 6, and 7.)

(See Engineering and Capital Projects Department's 7/16/2008, Executive Summary Sheet.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2009-200) ADOPTED AS RESOLUTION R-304274

Approving the plans and specifications for the construction of the South Mission Valley Trunk Sewer (Project) on Work Order No. 176831;

Authorizing the Mayor, or his designee, after advertising for bids in accordance with law, to establish contract funding phases and execute a construction contract with the lowest responsible and reliable bidder, provided that the City Comptroller first furnishes one or more certificates certifying that funds necessary for expenditure under established contract funding phases are, or will be, on deposit with the City Treasurer;

Authorizing the City Comptroller to transfer an amount not to exceed \$2,426,797 from Sewer Fund 41506, CIP-44-001.0, Annual Allocation-Sewer Main Replacement to Sewer Fund 41506, CIP-40-931.0, South Mission Valley Trunk Sewer;

Authorizing the expenditure of an amount not to exceed \$14,823,637, of which \$14,246,137 is from Sewer Fund 41506, CIP-40-931.0, South Mission Valley Trunk Sewer, for the purpose of providing funds for this Project's construction, contingency and related costs, and \$577,500 is from Sewer Fund 41506, CIP-46-193.0, Annual Allocation-Muni Pooled Contingency, for the purpose of providing funds for this Project's contingency and related costs, provided that the City Comptroller first furnishes one or more certificates certifying that the necessary funds for expenditure under established contract funding phases are, or will be, on deposit with the City Treasurer;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess budgeted funds, if any, to the appropriate reserves;

Stating for the record that the information contained in the Mitigated Negative Declaration No. 22528, including any comments received during the public review process, has been previously reviewed and considered by this Council and it is determined that no substantial changes or new information of substantial importance within the meaning of CEQA Guidelines Section 15162 would warrant any additional environmental review in connection with approval of the Project;

Directing the City Clerk to file a Notice of Determination (NOD) with the Clerk of the Board of Supervisors for the County of San Diego regarding the above Project. (BID-K092192C)

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 7/23/2008, NR&C voted 4 to 0 to approve. (Councilmembers Peters, Faulconer, Atkins, and Frye voted yea.)

SUPPORTING INFORMATION:

The South Mission Valley Trunk Sewer, originally installed in 1947, is located in the Mission Valley Community along Interstate 8 between Morena Boulevard and Interstate 15 and consists of four phases. This project, South Mission Valley Trunk Sewer, is the first phase of this trunk sewer replacement and consists of approximately 3,000 feet of 42" diameter trunk sewer along Interstate 8 between Hotel Circle Place and Taylor St., and approximately 600 feet of 24" diameter trunk sewer at the I-8/I-15 Interchange.

It includes those portions of the trunk sewer in deteriorated conditions, and also replacement of the downstream portion to increase capacity. The EPA requires completion of this project by October 2011.

This request includes the transfer of FY2009 budget from CIP-44-001.0, Annual Allocation-Sewer Main Replacement to CIP-40-931.0, South Mission Valley Trunk Sewer. Currently, there are no Sewer Group Projects scheduled and prepared to encumber this funding.

EQUAL OPPORTUNITY CONTRACTING:

Funding Agency: City of San Diego

Goals: 14% Mandatory Subcontractor Participation Goal, 5% Advisory Participation Goal Disadvantaged Business Enterprise (DBE), 1% Advisory Participation Goal Disabled Veteran Business Enterprise (DVBE), 8% Advisory Participation Goal Other Business Enterprise (OBE).

Other: Prior to award, a workforce report, and if necessary, an Equal Opportunity Plan shall be submitted. Staff will monitor the Plan and adherence to the Nondiscrimination Ordinance. EOC staff will evaluate the bidder's compliance with SCOPe. Failure to comply with SCOPe will lead to the bid being declared non-responsive. This contract will be advertised for bids in the San Diego Daily Transcript, the Orange County Register, the City of San Diego's website, and the E-Bid Board. In addition, once implemented, the Bidder Registration Program will notify registered participants of bid opportunities. Prior to implementation of the Bidder Registration Program, the City will notify trade associations and eligible firms via fax and/or e-mail.

FISCAL CONSIDERATIONS:

The total estimated cost of this project is \$15,816,663.35. Funding of \$2,262,971 was previously authorized by Council (R-296104), Council (R-294804) and O-19701 for consultant services and related costs for South Mission Valley Trunk Sewer Projects Phases I, II, III and IV. Of this amount, \$993,026.35 was authorized for South Mission Valley Trunk Sewer (Phase I).

Additional funding of \$14,246,137 will be available in the Enterprise Fund, CIP-40-931.0, South Mission Valley Trunk Sewer, Fund 41506, Sewer, of which \$2,426,797 was transferred from CIP-44-001.0, Annual Allocation-Sewer Main Replacement, Fund 41506, Sewer, and \$577,500 will be available in CIP-46-193.0, Annual Allocation-Muni Pool Contingency, Fund 41506, Sewer, for this purpose.

This project cost may be reimbursed approximately 80% by current or future debt financing. This project is scheduled to be phase-funded over two fiscal years from FY2009 to FY2010. Contingent upon availability of funds, the City Comptroller will issue an Auditor Certificate for each Phase of the Project.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTIONS:

On May 1, 2001, Council (R-294804) and February 25, 2002, Council (R-296104) executed an Agreement with Hirsch and Company for \$118,000 for pre-design and \$954,971 for design, respectively. On January 8, 2008, Council (O-19701) executed a First Amendment to the Agreement with RBF Consulting for \$394,148 and authorized additional related in-house costs for \$795,852.

The Committee on Natural Resources and Culture on July 23, 2008, consent motion by Councilmember Atkins, second by Council President Peters. Vote to approve 4-0.

The request to transfer \$2,426,797 from the Annual Allocation-Sewer Main Replacement, Fund 41506 to Sewer CIP-40-931.0, South Mission Valley Trunk Sewer, Fund 41506, was approved by IROC on September 8, 2008.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

During the original design phase, this project had been presented to the Mission Valley Community Council and Mission Valley Tourism Council on four (4) separate occasions from 2001 to 2004. A more recent presentation to the Mission Valley Community Council was made on April 2, 2008, and a presentation to the Mission Valley Tourism Council is scheduled for August 7, 2008. Residents and businesses will be notified by the City's Engineering & Capital Projects Department at least one (1) month before construction begins and by the contractor at least ten (10) days before construction begins through hand distribution of notices.

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

The key stakeholders are identified as public and municipality. The Project impacts include improved capacity for the new trunk sewer.

Boekamp/Jarrell

Aud. Cert. 2900133.

FILE LOCATION: W.O. 176831

COUNCIL ACTION: (Time duration: 10:34 a.m. – 10:37 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT THE RESOLUTION. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-not present, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-102: Inviting Bids for Asphalt Overlay Group I, Fiscal Year 2009 Project.

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-321) ADOPTED AS RESOLUTION R-304275

Approving the plans and specifications for Asphalt Overlay, Group I, Fiscal Year 2009 (Project), on Work Order No. 576510;

Authorizing the Mayor, or his designee, after advertising for bids in accordance with law, to award a contract for the above project to the lowest responsible and reliable bidder in an amount not to exceed \$9,911,419;

Authorizing the expenditure of an amount not to exceed \$10,396,419, solely and exclusively, to provide funds for the above contract, contingency, and related costs, to be expended as follows: \$10,396,419 from Prop 1B Fund No. 38941, CIP-59-001.0, Annual Allocation - Resurfacing City Streets; \$80,000 from Sewer Revenue Fund No. 41506; and \$47,000 from Water Department Fund No. 41500;

Authorizing the Mayor, or his designee, to exercise an option to extend the contract for asphalt overlay of additional streets in an amount not to exceed \$9,911,419, contingent on the availability of additional funding and provided that the City Comptroller furnishes one or more certificates demonstrating that the funds necessary for this expenditure are, or will be, on deposit with the City Treasurer;

Authorizing the City Comptroller to transfer excess budgeted funds, if any, to the appropriate reserves on advice from the administering department;

Declaring that this activity is exempt from the California Environmental Quality Act pursuant to CEQA Guidelines Section 15301(c) as the repair, maintenance, or minor alteration of existing streets, sidewalks, gutters, and similar facilities.
(BID-K094467C)

STAFF SUPPORTING INFORMATION:

This Asphalt Overlay Contract is the first of the Fiscal Year 2009 street resurfacing maintenance contracts, it will provide for the repair and resurfacing of 24.5 miles of asphalt streets. Locations for the Annual Street Maintenance Program are chosen through the use of pavement condition surveys, and the City's pavement management system using the following criteria: age, oxidation, cracking, amount of patching, street classifications and average daily traffic, and avoiding conflict with any planned underground utility work. Failed areas of the pavement will be removed and repaired prior to resurfacing and asphalt adjacent to curbs and gutters will be milled down to maintain proper curb heights and drainage. Approximately 65,593 tons of asphalt will be removed and recycled for use in other street maintenance activities. This contract also includes the installation of curb ramps, which will be placed at affected locations in compliance with ADA requirements.

The list of streets included in this Fiscal Year 2009 resurfacing contract is attached, but may be revised prior to award of the contract in order to avoid any construction conflicts that may arise. Construction for this project is expected to begin in February 2009 and take approximately eight months to complete. In addition to the construction contract costs of \$9,911,419 and the project contingency of \$194,000 the following administrative costs are also included: \$97,000 for project management, \$194,000 for construction management, for a total project cost of \$10,396,419.

EOUAL OPPORTUNITY CONTRACTING:

Funding Agency: City of San Diego - Prevailing wages does not apply to this contract (No State or Federal Funding sources).

Goals: 31% Mandatory Subcontractor Participation Goal, 10% Advisory Participation Goal Disadvantaged Business Enterprise (DBE), 1% Advisory Participation Goal Disabled Veteran Business Enterprise (DVBE), 20% Advisory Participation Goal Other Business Enterprise (OBE).

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Other: Prior to award, a workforce report, and if necessary, an Equal Opportunity Plan shall be submitted. Staff will monitor the Plan and adherence to the Nondiscrimination Ordinance. EOC staff will evaluate the bidder's compliance with SCOPE. Failure to comply with SCOPE will lead to the bid being declared non-responsive. This contract will be advertised for bids in the San Diego Daily Transcript, the City of San Diego's website, and the E-Bid Board. In addition, once implemented, the Bidder Registration Program will notify registered participants of bid opportunities. Prior to implementation of the Bidder Registration Program, the City will notify trade associations and eligible firms via fax and/or email.

FISCAL CONSIDERATIONS:

Funding in the amount of \$10,396,419 for the contract and related administration costs is available as follows: \$10,269,419 from Prop 1B funding in the Annual Allocation 59-001.0; \$80,000 from Sewer Revenue Fund 41506; \$47,000 from Water Department Fund 41500.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The list of streets to receive overlay is part of the Fiscal Year 2009 resurfacing program.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

After the contract is awarded, citizens will be notified by the contractor when paving will begin on their specific street.

Sierra/Jarrell

Aud. Cert. 2900231.

Staff: Ikhlash Shamoun - (619) 527-7511

Thomas C. Zeleny - Deputy City Attorney

FILE LOCATION: W.O. 576510

COUNCIL ACTION: (Time duration: 10:34 a.m. – 10:37 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT THE RESOLUTION. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-not present, Frye-yea, Madaffer-yea, Hueso-yea.

- * ITEM-103: Inviting Bids for an As-Needed Contractor for the Native Habitat/Landscape Maintenance. (Citywide.)

(See Metropolitan Wastewater Department's 8/13/2008, Executive Summary Sheet.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2009-249 Cor. Copy 2)

ADOPTED AS RESOLUTION R-304276

Approving the contract documents and technical specifications for General Requirements Contract 2009 H (GRC 2009 H) for an as-needed contractor for Native Habitat/Landscape Maintenance for the Metropolitan Wastewater Department and all other facilities Citywide, on Work Order No. 764830;

Authorizing the Mayor, or his designee, after advertising for bid in accordance with law to execute GRC 2009 H with the lowest responsible and reliable bidder for a minimum of \$50,000 and not to exceed amount of \$1,000,000 for an initial one year with the option to extend the term of the contract for an additional year and an additional \$1,000,000;

Declaring that exercising the option to extend the term of GRC 2009 H is contingent on future City Council approval;

Authorizing the expenditure of a total amount not to exceed \$1,000,000 from all potential City sources with a minimum of \$50,000 from Sewer Revenue Fund 41506, solely and exclusively, to provide funds for GRC 2009 H;

Declaring that prior to the award of each task order under the contract, the City Auditor must first provide one or more certificates demonstrating that the necessary funds are, or will be, on deposit in the City Treasury;

Declaring that the above activity is not a project and is therefore not subject to the California Environmental Quality Act pursuant to CEQA Guidelines Section 15060(c)(2). Future projects utilizing this contract will be subject to further environmental review;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess budgeted funds, if any, to the appropriate reserves. (BID-K094504C)

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 9/10/2008, NR&C voted 3 to 0 to return to the NR&C Committee for the second authorization of \$1 million. (Councilmembers Peters', Faulconer and Frye, voted yea. Councilmember Atkins not present.)

SUPPORTING INFORMATION:

This action requests the authorization to execute an As-Needed General Requirements Contract (GRC) which will be used for Citywide construction of Native Habitat/Landscape Maintenance; for an amount not less than \$50,000 and not to exceed \$1,000,000, with a contract duration of one (1) year with the option to extend the contract one (1) additional year and for an additional \$1,000,000.

This GRC will provide for Native Habitat/Landscape Maintenance and construction at various locations Citywide. Specific locations will be identified and will be approved on a task order by the task order basis. The Native Habitat/Landscape Maintenance and construction is most often a result of regulatory requirements.

The existing GRC for Native Habitat/Landscape Maintenance and construction expired in February 2008. This GRC allows for an efficient and effective method of performing the work quickly and cost effectively. A GRC is a competitively bid contract which includes all of the typical work activities conducted by a specific trade construction contractor. The contractor bids unit prices on various items of work which are not for a specific project. A contract is awarded to the lowest responsible bidder.

Tasks issued under this contract would include landscape and habitat maintenance activities as a result of our extensive, ongoing canyon maintenance and long term access program. This contract will provide landscape maintenance, construction, repairs, installation, irrigation, and erosion control; collect native seeds as-needed; procure and apply appropriate herbicides and pesticides as necessary; repair or restore native habitat, and assume maintenance activities of existing City projects. This work may require grading, excavation, weeding, planting, disposal or recycling of greenery, refuse removal and disposal, hydro-seeding, various forms of fencing, signage, and other miscellaneous tasks. This work will be assigned based on the type of work, location, and necessity.

In addition, Municipal Code Section 22.3104, Task Orders, sets the maximum work to be authorized for each GRC Task Order as not to exceed \$500,000 except in the case of an emergency affecting the health, safety, property, or when authorized by City Council.

EQUAL OPPORTUNITY CONTRACTING:

This Agreement is subject to the City's Equal Opportunity Contracting (San Diego Ordinance No. O-18173, Sections 22.2701 through 22.2702) and Non-Discrimination in Contracting Ordinance (San Diego Municipal Code Sections 22.3501 through 22.3517).

Funding Agency: City of San Diego- Prevailing wages will apply only to projects that use state and/or federal funding.

Other: Workforce Report to be submitted prior to contract award-Equal Opportunity may be required after Workforce Report Analysis. Staff will monitor plan and adherence to Nondiscrimination Ordinance.

FISCAL CONSIDERATIONS:

The funding for these projects will be available in various City Departments' Operating and/or CIP budgets. In this contract the City agrees to issue at least one task order with a minimum aggregate value of \$50,000. Funding for the minimum guaranteed amount of \$50,000 is available in Sewer Revenue Fund 41506, for this purpose.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

City Council had previously approved the Landscape/Habitat Maintenance GRC 2006 "L" (R-300678). This recent action was reviewed and approved by the Natural Resources and Culture Committee on September 10, 2008, with the direction that staff was to return to City Council for approval to exercise the option for the second year of the contract.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

City staff will work with the community during the performance of these projects.

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable): N/A

Ferrier/Barrett

FILE LOCATION: W.O. 764830

COUNCIL ACTION: (Time duration: 10:34 a.m. – 10:37 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT THE RESOLUTION. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-not present, Frye-yea, Madaffer-yea, Hueso-yea.

- * ITEM-104: Water and Sewer Group Job 770 – Easement Acquisition. (City Heights Community Area. District 7.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-375) ADOPTED AS RESOLUTION R-304277

Authorizing the Mayor, or his designee, to accept a Grant of Easement, granting an easement for sewer purposes across portions of Lot 4 of Clifford Point, according to Map thereof, No. 3171, filed in the Office of the County Recorder, January 6, 1955;

Authorizing the City Comptroller to disburse \$44,000 from CIP-44.001.0/44-227.8 Annual Allocation-Sewer Main Replacement, Fund 41506 for acquisition and other related costs.

STAFF SUPPORTING INFORMATION:

Group Job 770 is a sewer and water main replacement project located in the City Heights community. The project calls for the installation of 2,808 lineal feet of 8-inch sewer mains and 678 linear feet of water mains located mostly in the streets within the City Heights Community area. The purpose of the project is to relocate the sewer and water main from the environmentally sensitive canyon abutting the east side of Redwood Street.

A portion of the new line crosses private property located at 3122 Belle Isle Drive. Construction will include directional drilling (underground boring), which will not directly impact the surface of the private property except in the event of a blockage. This action will allow for the acceptance of the deed for the easement required for the completion of construction.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

City staff met with property owner to discuss the Project and the need for an easement across this property and described the construction method (underground boring) used to minimize impact to the property.

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

Neighborhood property owners

Improved access outside of the canyon areas

Barwick/Anderson

Staff: Lane Mackenzie - (619) 236-6050

Todd Bradley - Deputy City Attorney

FILE LOCATION: DEED F-10300

COUNCIL ACTION: (Time duration: 10:34 a.m. – 10:37 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT THE RESOLUTION. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-not present, Frye-yea, Madaffer-yea, Hueso-yea.

- * ITEM-105: Accepting the Rose Creek Watershed Opportunities Assessment. (Clairemont Mesa, University, and Pacific Beach Community Areas. Districts 2 and 6.)

(See City Attorney's Draft Resolution; Rose Creek Watershed Alliance's 6/20/2008, Power Point; City of San Diego's Proposed City Policy Regarding Restoration of City-Owned Lands for Conservation Purposes; Rose Creek Watershed Opportunities Assessment; and Councilmember Frye's 2/28/2007, memorandum.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2009-164) ADOPTED AS RESOLUTION R-304278

Accepting the Assessment as information for planning activities related to portions of the Watershed within the City of San Diego's land use jurisdiction;

Finding that this activity is not a project and is therefore not subject to the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15060(c)(3).

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 6/20/2007, NR&C voted 4 to 0 to approve the Rose Creek Watershed Opportunities Assessment as a guidance document for City activities in the watershed and schedule it for City Council approval by September 4, 2007. Direct the City Attorney to draft a Resolution of support for City Council approval and to approve the draft Resolution supporting the application by San Diego Earthworks for state grant funds to remove invasive exotic plants from the Rose Creek Watershed and schedule the Resolution for City Council approval by September 4, 2007. Direct the City Attorney to revise the draft Resolution into the appropriate format for City Council approval. (Councilmembers Faulconer, Maienschein, Frye, and Hueso voted yea.)

On 3/21/2007, NR&C voted 4-0 to: 1) Conceptually approve the Rose Creek Watershed Opportunities Assessment as a guidance document for City activities in the watershed; 2) schedule the Assessment to return to the committee after review through Development Services within 60 days; 3) form a subcommittee of District Two and District Six to work with the Rose Creek Watershed Alliance and the Mission Bay Committee, and others, to begin formulating a plan to create wetlands in Mission Bay proposed in the 1994 Mission Bay Plan for the mouth of

Rose Creek, and authorize the subcommittee to send letters in support of funding for this effort; 4) direct the Rose Creek Watershed Alliance to provide for wide distribution of the draft restoration policy to City staff and interested parties for comment, and return with revisions to the Natural Resources and Culture Committee for future action; and 5) request the Rose Creek Watershed Alliance to report back to the Natural Resources and Culture Committee with the results of the Rose Creek Maintenance Assessment District Survey. (Councilmembers Faulconer, Maienschein, Frye, and Hueso voted yea.)

SUPPORTING INFORMATION:

The Rose Creek Watershed is a 36-square mile area that extends from the MCAS Miramar, east of I-15, through San Clemente and Rose canyons and south along the east side of I-5, ultimately draining into Mission Bay Park via Pacific Beach. The watershed contains recreational opportunities, biological diversity and aesthetic beauty.

Unfortunately, the watershed faces many difficult challenges, as do other watersheds at the edge wildlands/urban interfaces. Non-native invasive species have spread from private property and/or other up-stream sources and overrun many native areas. Urban problems such as crime and vagrancy are acute in the lower watershed. While the overall health of the watershed is better than many urban-wildland watersheds in Southern California, portions of lower Rose Creek, in particular, are unhealthy, unsafe and a detriment to water quality in Mission Bay and the ocean. This Assessment includes recommendations to enhance the watershed, to make it a safer and healthier place for residents and visitors alike. It is the Rose Canyon Watershed Alliance's (Alliance) hope that the Assessment will engage and inform the public, guide volunteers and professionals, and build policy level support within the appropriate public and private agencies to enhance and preserve the watershed.

FISCAL IMPACT: None.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

Approved by Natural Resources and Culture Committee on 3/21/2007 and 6/20/2007.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The Alliance is a 13-member stakeholders group formed to help guide the Assessment. Alliance members include public and non-profit organizations working to improve the quality of life in the Rose Creek Watershed. Three public workshops have been held and the Alliance has received input from various City of San Diego departments with interest in the Rose Creek Watershed.

STAKEHOLDERS AND PROJECTED IMPACTS:

The Alliance is supportive of this action. No environmental impacts would be associated with adopting the plan as informational and guidance for future activities within the watershed.

LoMedico/Heap

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:37 a.m. – 10:37 a.m.)

MOTION BY MADAFFER TO ADOPT THE RESOLUTION. Second by Peters.
Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea,
Maienschein-not present, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-106: Conflict of Interest Code for the Airports Department. (Citywide.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-203) ADOPTED AS RESOLUTION R-304279

Adopting a Conflict of Interest Code for the Airports Department consisting of standard language embodied in Title 2, Section 18730 of the California Code of Regulations, and any amendments to that regulation duly adopted by the Fair Political Practices Commission, with Appendix A showing designated positions and their duties, and Appendix B showing the disclosure categories;

Declaring that a copy of Appendix A and Appendix B to the Conflict of Interest Code for the Airports Department as adopted, be placed on file in the Office of the City Clerk;

Designating that the persons whose positions are designated in the revised Conflict of Interest Code for the Airports Department shall file their statements of economic interest with the City Clerk in compliance with the schedule set forth in Government Code Section 87302(b) and Fair Political Practices Commission Regulation 18730, or any amendments thereto, which set forth the deadlines for the filing of initial statements, assuming office statements, annual statements and leaving office statements;

Declaring that the statements of economic interest filed by designated persons be retained by the Office of the City Clerk and be made available for public inspection and reproduction;

Declaring that the Conflict of Interest Code for the Airports Department becomes effective upon the date of adoption of this resolution.

STAFF SUPPORTING INFORMATION:

This revision is intended to conform to Government Code Section 87305.5 requiring a biennial review and update of local conflict of interest codes, as reflected in City Council Resolution No. R-303718 adopted on May 27, 2008.

The Airports Code has been created to reflect the restructuring that moved Airports Division from Real Estate Assets Department (READ) into a stand-alone division within the Public Works group in Fiscal Year 2009. The Airport Operations Manager and Noise Abatement Officer positions, formerly included in the READ, Airport Division's code have been transferred to the Airports Code. Under the restructure, the following positions have been transferred from READ to Airports: Airports Development Coordinator (formerly Supervising Property Agent); Deputy Director, Airports; and Property Agent. The Senior Civil Engineer has been removed from the code because it no longer exists in Airports. The Airports Code has also been revised to reflect the addition of the Management Analyst.

FISCAL CONSIDERATIONS: None.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: N/A

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS: N/A

Tussey/Jarrell

Staff: Mike Tussey - (858) 573-1441
Sharon B. Spivak - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:34 a.m. – 10:37 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT THE RESOLUTION. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-not present, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-107: Conflict of Interest Code for the Office of the Chief Information Officer.
(Citywide.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-205) ADOPTED AS RESOLUTION R-304280

Adopting a Conflict of Interest Code for the Office of the Chief Information Officer, consisting of standard language embodied in Title 2, Section 18730 of the California Code of Regulations, and any amendments to that regulation duly adopted by the Fair Political Practices Commission, with Appendix A showing designated positions and their duties, and Appendix B showing the disclosure categories;

Declaring that a copy of Appendix A and Appendix B to the Conflict of Interest Code for the Office of the Chief Information Officer as adopted, be placed on file in the Office of the City Clerk;

Designating that the persons whose positions are in the revised Conflict of Interest Code for the Office of the Chief Information Officer shall file their statements of economic interest with the City Clerk in compliance with the schedule set forth in Government Code Section 87302(b) and Fair Political Practices Commission

Regulation 18730, or any amendments thereto, which set forth the deadlines for the filing of initial statements, assuming office statements, annual statements and leaving office statements;

Declaring that the statements of economic interest filed by designated persons be retained by the Office of the City Clerk and be made available for public inspection and reproduction;

Declaring that the Conflict of Interest Code for the Office of the Chief Information Officer becomes effective upon the date of adoption of this resolution.

STAFF SUPPORTING INFORMATION:

This revision is intended to conform to Government Code Section 87305.5 requiring a biennial review and update of Local Conflict of Interest Codes as reflected in City Council Resolution No. R-303718 adopted on May 27, 2008. The Office of the CIO Code has been revised to include new positions which had not been previously designated, remove positions previously designated but now more appropriately included in other City department's Conflict of Interest Codes, and to update the required filing categories for each designated position.

FISCAL CONSIDERATIONS: None.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: N/A

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS: N/A

Stapleton

Minutes of the Council of the City of San Diego
for the Regular Meeting of Tuesday, October 21, 2008

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Staff: Maria Mendoza - (619) 533-3440
Sharon B. Spivak - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:34 a.m. – 10:37 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT THE RESOLUTION. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-not present, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-108: Conflict of Interest Code for the Real Estate Assets Department. (Citywide.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-222) ADOPTED AS RESOLUTION R-304281

Adopting a Conflict of Interest Code for the Real Estate Assets Department, consisting of standard language embodied in Title 2, Section 18730 of the California Code of Regulations, and any amendments to that regulation duly adopted by the Fair Political Practices Commission, with Appendix A showing designated positions and their duties, and Appendix B showing the disclosure categories;

Declaring that a copy of Appendix A and Appendix B to the Conflict of Interest Code for the Real Estate Assets Department as adopted, be placed on file in the Office of the City Clerk;

Declaring that the persons whose positions are designated in the revised Conflict of Interest Code for the Real Estate Assets Department shall file their statements of economic interest with the City Clerk in compliance with the schedule set forth in Government Code Section 87302(b) and Fair Political Practices Commission Regulation 18730, or any amendments thereto, which set forth the deadlines for the filing of initial statements, assuming office statements, annual statements and leaving office statements;

Declaring that the statements of economic interest filed by designated persons be retained by the Office of the City Clerk and be made available for public inspection and reproduction;

Declaring that the Conflict of Interest Code for the Real Estate Assets Department becomes effective upon the date of adoption of this resolution.

STAFF SUPPORTING INFORMATION:

This revision is intended to conform to Government Code Section 87305.5 requiring a biennial review and update of local conflict of interest codes as reflected in City Council Resolution No. R-303718 adopted on May 27, 2008. The Real Estate Assets Department code has been revised as follows:

Appendix A - Position(s) Removed: Deputy Director, Airports; Airport Operations Manager; Noise Abatement Officer; Senior Civil Engineer (Airports). Airports no longer reports to the Real Estate Assets Department, it is now under Public Works.

Appendix A - Position(s) Added: Asset Manager; Principal Appraiser.

Appendix B - Revisions/Additions: There are no longer 4 categories. Category 2, which previously pertained to Airports, has been removed and all other categories renumbered to reflect the current reporting relationships in the Real Estate Assets Department.

Category 3 "Consultants" - Paragraph 2, line 1: Airport Operations Manager was removed.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable): N/A

Barwick/Anderson

Staff: James F. Barwick - (619) 236-6145
Sharon B. Spivak - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:34 a.m. -- 10:37 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT THE RESOLUTION. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-not present, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-109: Conflict of Interest Code for the Commission for Arts and Culture. (Citywide.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-231) ADOPTED AS RESOLUTION R-304282

Adopting a Conflict of Interest Code for the Commission for Arts and Culture, consisting of standard language embodied in Title 2, Section 18730 of the California Code of Regulations, and any amendments to that regulation duly adopted by the Fair Political Practices Commission, with Appendix A showing designated positions and their duties, and Appendix B showing the disclosure categories;

Declaring that a copy of Appendix A and Appendix B to the Conflict of Interest Code for the Commission for Arts and Culture as adopted, be placed on file in the Office of the City Clerk;

Declaring that the persons whose positions are designated in the revised Conflict of Interest Code for the Commission for Arts and Culture shall file their statements of economic interest with the City Clerk in compliance with the schedule set forth in Government Code Section 87302(b) and Fair Political Practices Commission Regulation 18730, or any amendments thereto, which set forth the deadlines for the filing of initial statements, assuming office statements, annual statements and leaving office statements;

Declaring that the statements of economic interest filed by designated persons be retained by the Office of the City Clerk and be made available for public inspection and reproduction;

Declaring that the Conflict of Interest Code for the Commission for Arts and Culture becomes effective upon the date of adoption of this resolution.

STAFF SUPPORTING INFORMATION:

The revision is intended to conform to Government Code Section 87305.5 requiring a biennial review and update of local conflict of interest codes as reflected in City Council Resolution No. R-303718 adopted on May 27, 2008.

The Commission for Arts and Culture code has been revised to combine board and staff positions on the same conflict of interest code and update the required filing categories.

FISCAL CONSIDERATIONS: None.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: N/A

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS: N/A

Hamilton/Dubick

Staff: Victoria L. Hamilton - (619) 236-6770
Sharon B. Spivak - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:34 a.m. – 10:37 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT THE RESOLUTION. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-not present, Frye-yea, Madaffer-yea, Hueso-yea.

- * ITEM-110: Proposed Revisions for Conflict of Interest Code for the City Attorney's Office.
(Citywide.)

(See Report from the City Attorney dated 8/25/2008.)

CITY ATTORNEY'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-206) ADOPTED AS RESOLUTION R-304283

Adopting a Conflict of Interest Code for the City Attorney's Office, consisting of standard language embodied in Title 2, Section 18730 of the California Code of Regulations, and any amendments to that regulation duly adopted by the Fair Political Practices Commission, with Appendix A showing designated positions and their duties, and Appendix B showing the disclosure categories;

Declaring that a copy of Appendix A and Appendix B to the Conflict of Interest Code for the City Attorney's Office as adopted be placed on file in the Office of the City Clerk;

Designating that the persons whose positions are in the revised Conflict of Interest Code for the City Attorney's Office shall file their statements of economic interest with the City Clerk in compliance with the schedule set forth in Government Code Section 87302(b) and Fair Political Practices Commission Regulation 18730, or any amendments thereto, which set forth the deadlines for the filing of initial statements, assuming office statements, annual statements and leaving office statements;

Declaring that the statements of economic interest filed by designated persons be retained by the Office of the City Clerk and be made available for public inspection and reproduction;

Declaring that the Conflict of Interest Code for the City Attorney's Office becomes effective upon the date of adoption of this resolution.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:34 a.m. – 10:37 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT THE RESOLUTION. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-not present, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-111: Rails-to-Trails Conservancy Day on Behalf of the Active Transportation 2010 Campaign.

(See Council President Peters' 8/25/2008, memorandum.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2009-319) ADOPTED AS RESOLUTION R-304284

Supporting and endorsing the City of San Diego's participation in the 2010 Campaign for Active Transportation, which has a goal of doubling federal funding for trails, walking and biking in the next federal transportation reauthorization;

Proclaiming October 20, 2008, to be "Rails-to-Trails Conservancy Day" in the City of San Diego.

**RULES, OPEN GOVERNMENT, AND INTERGOVERNMENTAL RELATIONS
COMMITTEE'S RECOMMENDATION:**

On 9/3/2008, Rules voted 5 to 0 to support the Active Transportation 2010 Policy and forward Council President Peters' resolution to the full City Council for approval. (Councilmembers Peters, Young, Frye, Madaffer, and Hueso voted yea.)

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:34 a.m. – 10:37 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT THE RESOLUTION. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-not present, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-112: Declaring a Continued State of Emergency Regarding the Wildfires.

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2009-40) ADOPTED AS RESOLUTION R-304285

Declaring a continued state of emergency to exist in the City of San Diego due to the wildfires which began on October 21, 2007, pursuant to California Government Code Section 8630;

Declaring that the measures previously taken by the City Council in Resolution No. R-303098 shall continue to have full force and effect.

FILE LOCATION: Gen'l – State of Emergency Regarding the Wildfires

COUNCIL ACTION: (Time duration: 10:34 a.m. – 10:37 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT THE RESOLUTION. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-not present, Frye-yea, Madaffer-yea, Hueso-yea.

- * ITEM-113: Declaring a Continued State of Emergency Due to Severe Shortage of Affordable Housing in the City.

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2009-58) ADOPTED AS RESOLUTION R-304286

Declaring a Continued State of Emergency Due to Severe Shortage of Affordable Housing in the City of San Diego.

FILE LOCATION: Gen'l – State of Emergency Due to Severe Shortage of Affordable Housing

COUNCIL ACTION: (Time duration: 10:34 a.m. – 10:37 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT THE RESOLUTION. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-not present, Frye-yea, Madaffer-yea, Hueso-yea.

- * ITEM-114: Declaring a Continued State of Emergency Regarding the Discharge of Raw Sewage from Tijuana, Mexico. (District 8.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2009-2) ADOPTED AS RESOLUTION R-304287

Declaring a Continued State of Emergency regarding the discharge of raw sewage from Tijuana, Mexico.

FILE LOCATION: Gen'l – State of Emergency Regarding the Discharge of
Raw Sewage from Tijuana, Mexico

COUNCIL ACTION: (Time duration: 10:34 a.m. – 10:37 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT THE RESOLUTION. Second by
Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-
yea, Maienschein-not present, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-115: State of Local Emergency Declaration Regarding the Landslide on Mount
Soledad.

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2009-10) ADOPTED AS RESOLUTION R-304288

Declaring a continued state of emergency to persist relative to the landslide on
Mount Soledad, pursuant to California Government Code Section 8630;

Declaring that the measures previously authorized by the City Council in
Resolution No. R-303041 shall continue to have full force and effect.

FILE LOCATION: Gen'l – State of Emergency Regarding the Landslide on
Mount Soledad

COUNCIL ACTION: (Time duration: 10:34 a.m. – 10:37 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT THE RESOLUTION. Second by
Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-
yea, Maienschein-not present, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-330: Salk Institute. A request for a Vesting Tentative Map (VTM), Master Planned Development Permit (MPDP), Coastal Development Permit (CDP), Site Development Permit (SDP), Amendment to CDP/HRP/CUP No. 90-1140, Easement Abandonment, and Multiple Habitat Planning Area (MHPA) Boundary Line Adjustment, to demolish the West Buildings (20,000 square-feet) and Accessory Building (9,000 square-feet) and construct the Torrey East Laboratory Building (94,200 square-feet), Salk Community Center Building (117,000 square-feet), North Peninsula Underground Parking Facility, and Greenhouses (4,000 square-feet), for a total of 476,000 square-feet of building area, on a 26.3-acre site located at 10010 North Torrey Pines Road. (La Jolla Community Plan Area. District 1.)

Matter of approving, conditionally approving, modifying or denying an application for a Vesting Tentative Map (VTM), Master Planned Development Permit (MPDP), Coastal Development Permit (CDP), Site Development Permit (SDP), Amendment to CDP/HRP/CUP No. 90-1140, Easement Abandonment, and Multiple Habitat Planning Area (MHPA) Boundary Line Adjustment, to demolish the West Buildings (20,000 square-feet) and Accessory Building (9,000 square-feet) and construct the Torrey East Laboratory Building (94,200 square-feet), Salk Community Center Building (117,000 square-feet), North Peninsula Underground Parking Facility, and Greenhouses (4,000 square-feet), for a total of 476,000 square feet of building area, on a 26.3-acre site located at 10010 North Torrey Pines Road in the RS 1-7, Coastal Overlay (Coastal Commission Appealable Area), Parking Impact Overlay, Community Plan Implementation Overlay Zone – Area A (CPIOZ-A), Coastal Height Limitation Overlay Zones, First Public Roadway, within the University Community Plan and the North City Local Coastal Program. Environmental Impact Report No. 44675. Report No. PC-08-083.

The decision by the City Council is appealable to the California Coastal Commission. Appeals to the Coastal Commission must be filed with the Coastal Commission at 7575 Metropolitan Drive, Suite 103, San Diego, CA 92108. Phone: (619) 767-2370. Appeals must be filed within 10 working days of the Coastal Commission receiving a notice of final action from the City. If you want to receive a Notice of Final Action, you must submit a written request to the City Project Manager, Laura C. Black, 1222 First Avenue, MS 501, San Diego, CA 92101.

(EIR Project No. 44675/MMRP/Findings and Statement of Overriding Considerations/VTM No. 369518 with Easement Abandonment No. 130269/MPDP No. 561577/CDP No. 126996/SDP No. 127002 an Amendment to CDP/HRP/CUP No. 90-1140/MHPA Boundary Line Adjustment.)

STAFF'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2009-337) ADOPTED AS RESOLUTION R-304289

Adoption of a Resolution certifying Environmental Impact Report LDR No. 44675 has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code Section 21000 et seq.) as amended, and the State Guidelines thereto (California Code of Regulations Section 15000 et seq.), that the report reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in said report, together with any comments received during the public review process, has been reviewed and considered by this Council in connection with the approval;

That pursuant to California Public Resources Code Section 21081 and California Code of Regulations Section 15091, the City Council adopts the findings made with respect to the project;

That pursuant to California Code of Regulations Section 15093, the City Council adopts the Statement of Overriding Considerations, with respect to this project;

That pursuant to California Public Resources Code Section 21081.6, the City Council adopts the Mitigation Monitoring and Reporting Program, or alterations to implement the changes to the project as required by this body in order to mitigate or avoid significant effects on the environment;

That the City Clerk is directed to file a Notice of Determination (NOD) with the Clerk of the Board of Supervisors for the County of San Diego regarding the above project.

Subitem-B: (R-2009-281) ADOPTED AS RESOLUTION R-304290

Adoption of a Resolution approving Vesting Tentative Map No. 369518 and Easement Abandonment No. 130269 for Salk Institute Project No. 44675.

Subitem-C: (R-2009-325) ADOPTED AS RESOLUTION R-304291

Adoption of a Resolution granting Coastal Development Permit No. 126996, Site Development Permit No. 127002, Master Planned Development Permit No. 561577, Multi-Habitat Planning Area Boundary Line Adjustment, and amendment to Coastal Development/Hillside Resource Protection/Conditional Use Permit No. 90-1140 for the Salk Institute Project.

OTHER RECOMMENDATIONS:

Planning Commission on September 4, 2008, voted 4-0-3 to approve.

Ayes: Griswold, Golba, Ontai, Schultz

Not present: Naslund, Otsuji, Smiley

The University Community Planning Group has recommended approval of this project, by a vote of 13-0-0.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

Approval of the phased expansion of the existing Salk Institute, located at 10010 North Torrey Pines Road, west of North Torrey Pines Road and south of Torrey Pines Scenic Drive within the University Community Plan Area.

STAFF RECOMMENDATIONS:

1. Certify Environmental Impact Report No. 44675, adopt the Mitigation Monitoring and Reporting Program, and adopt the applicant's Findings and Statement of Overriding Considerations.
2. Approve Vesting Tentative Map No. 369518, Master Planned Development Permit No. 561577, Coastal Development Permit No. 126996, Site Development Permit No. 127002, an amendment to CDP/HRP/CUP No. 90-1140, Easement Abandonment No. 130269, Multiple Habitat Planning Area (MHPA) Boundary Line Adjustment.

EXECUTIVE SUMMARY:

The original Salk Institute Campus was approved by Planning Commission on March 3, 1961, under a Conditional Use Permit (CUP) No. 3841, with the first buildings completed in 1965. The Salk Institute Campus has expanded since the approval of CUP No. 3841, through six amendments, with the most recent amendment approving the East Building, which was approved on May 30, 1991. Currently, approximately 18.4 acres of the site is developed with approximately 289,800 square-feet of scientific research and support facilities. On February 27, 1991, the San Diego Historic Sites Board voted to include the Salk Institute as Historic Site No. 304 in the San Diego Historical Resources Register on the basis of its association with Louis Kahn and Jonas Salk for its "architectural significance."

The project proposes a phased expansion to the existing Salk Institute Campus. The proposed project includes the demolition of the West Buildings (20,000 square-feet) and Accessory Building (9,000 square-feet) and the phased construction of the Torrey East Laboratory Building (94,200 square-feet), Salk Community Center Building (117,000 square-feet), North Peninsula Underground Parking Facility, and Greenhouses (4,000 square-feet), for a total of 476,000 square feet of building area upon completion. The Salk Institute is located on a 26.3-acre site, currently improved with approximately 289,800 square feet of development, at 10010 North Torrey Pines Road in the RS 1-7, Coastal Overlay (Coastal Commission Appealable Area), Parking Impact Overlay, Community Plan Implementation Overlay Zone – Area A (CPIOZ-A), Coastal Height Limitation Overlay Zones, First Public Roadway, within the University Community Plan and the North City Local Coastal Program. The proposed development would provide on-site parking through the construction of two new underground parking garages near the locations of existing on-site surface parking lots. Proposed Lot No. 3 will provide approximately 7.1-acres into a conservation easement to preserve the existing habitat.

The project is within the Torrey Pines Subarea of the University Community Plan and is designated for Scientific Research uses. The development intensity element allows 500,000 square-feet of Scientific Research uses. When the site is completely developed from this phased expansion, the campus will have 476,000 square feet of scientific research uses.

The project is requesting a deviation from the 30-foot height limit in the RS-1-7 residential zone (SDMC Table 131-04D and SDMC 131.0444[b]) for the Salk Community Center Building. However, this building, and all others proposed in the Master Plan will comply with the City's Coastal Height Limit Overlay Zone requirements within SDMC 132.0505. Environmental Impact Report (EIR) No. 44675 has been prepared for the Project.

FISCAL CONSIDERATIONS:

All costs associated with the processing of this project are recovered by a deposit account maintained by the applicant.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On September 4, 2008, the Planning Commission voted to approve the project on consent by a vote of 4-0. On July 8, 2008, the University Community Planning Group voted 13-0-0 to recommend approval, with no conditions. On July 24, 2008, the Historical Resources Board voted 5-4 to recommend approval of the supplemental historical findings for the Site Development Permit. On November 13, 2007, the San Diego County Regional Airport Authority, Airport Land Use Commission determined that the project is consistent with the Marine Corps Air Station Miramar Land Use Compatibility Plan.

KEY STAKEHOLDERS:

The Salk Institute for Biological Studies, Garry Van Gerpen, Director of Facilities Services Mark Rowson, Land Development Strategies, Inc.

Anderson/Broughton

LEGAL DESCRIPTION:

The Project is located at 10010 North Torrey Pines Road, north of Salk Institute Road, within the Coastal Zone and the University Community Planning Area, City of San Diego.

Staff: Laura Black – (619) 446-5112
Nina Fain – Deputy City Attorney

NOTE: This item is not subject to the Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:05 p.m. – 2:25 p.m.)

Testimony in favor by Dr. Marsha Chandler, Mark Rowson, Joe Panetta, Lisa Ross, Deborah Knight, Michael Beck and Erv Wheeler.

MOTION BY FAULCONER TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-331: Quarry Falls. Project No. 49068. Mission Valley Community Plan Amendment and General Plan Amendment and Progress Guide Amendment, Specific Plan, Site Development Permit, Master Planned Development Permit, Vesting Tentative Map and Conditional Use Permit. The 230.5-acre site is located on the north side of Friars Road between I-805 and Mission Center Road and south of Phyllis Place. (Mission Valley and Serra Mesa Community Plan Areas. District 6.)

Matter of approving, conditionally approving, modifying, or denying a Mission Valley Community Plan Amendment and General Plan and Progress Guide Amendment, Specific Plan, Site Development Permit, Master Planned Development Permit, Vesting Tentative Map and Conditional Use Permit (Process 5) to amend Conditional Use Permit No. 82-0315 and 5073. The 230.5-acre site is located on the north side of Friars Road between I-805 and Mission Center Road and south of Phyllis Place. Rezoning would occur from RS-1-7, MVPD-MV-M and MVPD-MV-M/SP to the proposed OP-2-1, RS-1-7, RM-1-1, RM-2-4, RM-3-7, RM-3-8, RM-3-9, RM-4-10, CC-3-5, and IL-3-1 Zones within the Mission Valley and Serra Mesa Community Plan Areas and would include the phased redevelopment of a mining, extraction and processing use to land uses and development consistent with the Quarry Falls Specific Plan, including a maximum of 4,780 residential units; 900,000 square feet of combined commercial retail and office with the ability to transfer unused trips from residential land use to increase the final commercial development intensity; approximately 17.5 acres of public population-based parks, civic uses, open space and trails; and an optional school site.

(See Report to City Council No. 08-138/PEIR No. 49068/MMRP/GP and MVCP No. 183189/VTM No. 183196/MPDP No. 183193/SDP No. 183192/CUP and Reclamation Plan Amendment No. 183194.)

STAFF'S RECOMMENDATION:

Adopt the resolutions in Subitems A, B, C, D, and E; introduce the ordinance in Subitem F; and take the action in Subitem G:

Subitem-A: (R-2009-417) ADOPTED AS RESOLUTION R-304292

Adoption of a Resolution certifying and approving Program Environmental Impact Report (PEIR) No. 49068 and adopting the findings; the Mitigation, Monitoring, and Reporting Program; and the Statement of Overriding Considerations for the Quarry Falls project;

That it is certified, that PEIR No. 49068, on file in the Office of the City Clerk has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code Section 21000 et seq.), as amended, and the State Guidelines thereto (California Code of Regulations Section 15000 et seq.), that the report reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in said PEIR, together with any comments received during the public review process, has been reviewed and considered by the City Council in connection with the approval of a Community Plan Amendment, General Plan Amendment, Rezone, Specific Plan, Master Planned Development Permit, Site Development Permit, Vesting Tentative Map, Conditional Use Permit/Reclamation Plan Amendment, and a Mission Valley Public Facilities Financing Plan Amendment for the Quarry Falls Project;

That pursuant to California Public Resources Code Section 21081 and California Code of Regulations Section 15091, the City Council adopts the findings made with respect to the Project, a copy of which is on file in the Office of the City Clerk and incorporated herein by reference;

That pursuant to California Code of Regulations Section 15093, the City Council adopts the Statement of Overriding Considerations, a copy of which is on file in the Office of the City Clerk and incorporated herein by reference;

That pursuant to California Public Resources Code Section 21081.6, the City Council adopts the Mitigation Monitoring and Reporting Program, or alterations to implement the changes to the project as required by this body in order to mitigate or avoid significant effects on the environment, a copy of which is attached hereto as Exhibit A and incorporated herein by reference;

That the City Clerk is directed to file a Notice of Determination (NOD) with the Clerk of the Board of Supervisors for the County of San Diego regarding the above project.

Subitem-B: (R-2009-412) ADOPTED AS RESOLUTION R-304293

Adoption of a Resolution adopting amendments to the Mission Valley Community Plan and the General Plan and adopting the Quarry Falls Specific Plan for the Quarry Falls, Project No. 49068.

Subitem-C: (R-2009-414 Cor. Copy) ADOPTED AS RESOLUTION R-304294

Adoption of a Resolution approving Vesting Tentative Map No. 183196 for Quarry Falls, Project No. 49068;

That the recommendation of the Planning Commission is sustained, and Vesting Tentative Map No. 183196 is granted to Quarry Falls, LLC, a California Limited Liability Company, subject to the conditions attached hereto and made a part of hereof.

Subitem-D: (R-2009-415 Cor. Copy) ADOPTED AS RESOLUTION R-304295

Adoption of a Resolution granting the Development Permit No. 183192 and Master Plan Development Permit No. 183193 for Quarry Falls, Project No. 49068;

That the recommendation of the Planning Commission is sustained, and Site Development Permit No. 183192 and Master Planned Development Permit No. 183193 is granted to Quarry Falls, LLC, under the terms and conditions set forth in the permit attached hereto and made a part hereof.

Subitem-E: (R-2009-416 Cor. Copy) ADOPTED AS RESOLUTION R-304296

Adoption of a Resolution granting Conditional Use Permit No. 183194 for Quarry Falls, Project No. 49068;

That the recommendation of the Planning Commission is sustained, and Conditional Use Permit No. 183194 is granted to Quarry Falls, LLC, Owner/Permittee, under the terms and conditions set forth in the permit attached hereto and made a part hereof.

Subitem-F: (O-2009-46) INTRODUCED, TO BE ADOPTED MONDAY,
NOVEMBER 10, 2008

Introduction of an Ordinance of the Council of the City of San Diego rezoning 225 acres located north of Friars Road, south of Phyllis Place, between Mission Center Road and Interstate 805 within the Mission Valley Community Plan Area from the RS-1-7, MVRD-MV-M, and MVRD-MV/SP Zones to the OP-2-1, RS-1-7, RM-1-1, RM-2-4, RM-3-7, RM-3-8, RM-3-9, RM-4-10, CC-3-5, and IL-3-1 Zones, as defined by San Diego Municipal Code Sections 131.0202, 131.0403, 131.0406, 131.0507, and 131.0603 and repealing Ordinance Nos. O-17499 (New Series) and O-13457 (Old Series) adopted August 22, 1990 and March 17, 1932 respectively, of the Ordinances of the City of San Diego insofar as the same conflict herewith.

Subitem-G: (R-2009-541) ADOPTED AS RESOLUTION R-304297

Initiating amendments to the Serra Mesa Community Plan and General Plan to add a Phyllis Place road connection to the project;

Directing the City Attorney to prepare the proper resolution according to Section 40 of the City Charter.

OTHER RECOMMENDATIONS:

Planning Commission on September 18, 2008, voted 4-0-3, to approve Items 1 through 5.

Ayes: Schultz, Griswold, Ontai, Golba

Not present: Naslund, Otsuji, Smiley

Also on September 18, 2008, Planning Commission voted on Item 6, to recommend initiation of a Community Plan Amendment for Serra Mesa to include a road connection to Phyllis Place which failed by a vote of 3-1-3.

Ayes: Griswold, Ontai, Golba

Nay: Schultz

Abstaining: Naslund, Otsuji

Not Present: Smiley

The Mission Valley and the Serra Mesa Community Planning Groups have recommended approval of this project.

STAFF SUPPORTING INFORMATION:**REQUESTED ACTION:**

Approval of the Quarry Falls Specific Plan and related actions to allow the redevelopment of an existing mining site with a maximum of 4,780 residential units, a maximum of 900,000 square feet of commercial retail/office with the ability to transfer unused trips from residential land use to increase the final commercial development intensity, including approximately 17.5 acres of public population-based parks, civic uses, open space and trails, and an optional school site located on a 230.5 acre site bounded by I-805 to the east, Friars Road to the south, Mission Center Road to the west and Phyllis Place to the north, in the Mission Valley and Serra Mesa Community Plan Areas.

STAFF RECOMMENDATION:

1. **Certify** Environmental Impact Report No. 49068, **adopt** the Mitigation Monitoring and Reporting Program, and **adopt** the Findings and Statement of Overriding Considerations; and
2. **Adopt** the Rezoning Ordinance No. O-183191; and
3. **Approve** amendments to the General Plan and the Mission Valley Community Plan No. 183189; and

4. **Approve** the Quarry Falls Specific Plan, Vesting Tentative Map No. 183196, Master Planned Development Permit No. 183193, and Site Development Permit No. 183192; and
5. **Approve** the Conditional Use Permit and Reclamation Plan Amendment No. 183194; and
6. **Initiate** a Community Plan Amendment for Serra Mesa to include a road connection to Phyllis Place.

EXECUTIVE SUMMARY:

The Quarry Falls project proposes to develop a maximum of 4,780 residential units, a maximum of 900,000 square feet of combined commercial retail/office, with the ability to transfer unused trips from residential land use to increase the final commercial development intensity, public parks, and open space on a 230.5-acre site that currently includes an active mining site where sand and gravel resources are approaching depletion. As an end use of the mining operations, an integrated mix of land uses surrounding a system of parks, open spaces and activity areas will be developed in a phased manner as depletion of resources occurs and mining ceases. Proposed land uses will be linked with an internal pedestrian and trail system and connected to adjacent areas by an internal roadway network. Land uses will include approximately 17.5 acres of public population-based parks, civic uses, open space and trails, and an optional school site.

The Staff Recommendation No. 6 above is not part of the proposed project. The applicant studied the road connection in the Environmental Impact Report and Traffic Study and Staff believes the road is a benefit to the region as a whole as it would provide less impacts and better connectivity between communities and to Interstate 805. In 2003 the Serra Mesa initiation request was denied by Planning Commission and City Council. The Mission Valley Unified Planning Committee's motion included language in favor of the connection whereas the Serra Mesa Planning Group is against the connection.

FISCAL CONSIDERATIONS: No cost to the City. A deposit account funded by the applicant recovers all costs associated with the processing of the project application.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On September 18, 2008, the Planning Commission voted 4-0-3, to recommend approval of Staff Recommendation Nos. 1-5. A second vote on Recommendation No. 6, to recommend City Council initiate a Community Plan Amendment for Serra Mesa to include a road connection to Phyllis Place, did not pass by a vote of three in favor and one opposed, with two abstaining and one absent.

On June 4, 2008, the Mission Valley Unified Planning Committee (MVUPC) voted 11-4-0 to recommend approval of the project. The MVUPC recommendation was based upon the inclusion of a road connection to Phyllis Place and additional development design standards which have been added to the Specific Plan. On June 19, 2008, the Serra Mesa Planning Group (SMPG) voted 9-3-0 to recommend approval of the project. The SMPG recommendation was based upon prohibiting the road connection to Phyllis Place, additional mitigation at the Phyllis Place/Murray Ridge Road and I-805 interchanges, and preserving neighborhood character by maintaining Murray Ridge Road with one travel lane in each direction.

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable): Quarry Falls, LLC, Sudberry Properties, Vulcan Materials Company

Broughton/Anderson

LEGAL DESCRIPTION:

The project site is located in the Mission Valley and Serra Mesa Communities, bordered on the south by Friars Road, on the north by Phyllis Place (within the Serra Community Plan Area), on the east by I-805 Freeway, and on the west by Mission Center Road (portion of Pueblo Lots 1109, 1173, 1174, 1182, 1183, 1184, and 1186 of Miscellaneous Map No. 36.)

Staff: Jeannette Temple – (619) 557-7908
Nina M. Fain – Deputy City Attorney

NOTE: This item is not subject to the Mayor's veto.

FILE LOCATION: SUBITEMS A, B, C, D & G: MEET
SUBITEM F: NONE

COUNCIL ACTION: (Time duration: 2:36 p.m. – 3:58 p.m.;
4:05 p.m. – 6:48 p.m.)

Testimony in opposition by Lynn Mulholland, Craig Sherman, Dustin Young, Tom Mullaney, Duncan Mc Fetridge, Mignon Scherer, Don Stillwell, Jennifer White, Mary Slupe, Gail Thompson, Gary Eisenbooth, Susan Shean and Kathy Evans-Calderwood.

Testimony in favor by Tom Sudberry, Marco Sessa, Pat Grant, Gary Gallegos, Jim Peugh, Rev. Rickey Laster, Scott Whitley, Rob Hutsel, Todd Philips, Jim Schmidt, Angelika Villagrana, James Sperbeck, Tom Leech, Dicken Hall, Stephen Kapp, Jamie Moody, Sherm Harmer, Ed Mrack, Harry Huntsman, Gina Cord, Floyd Morrow, Nathaniel Cohen, Thomas Kaye, Kurt Tellefsen, Dorothy Surdi, Cindy Moore, Jacquelin Ander, Doreen Gorostiza, James Feinberg, Chris Duggan and Linda Kaufman.

MOTION BY MADAFFER TO ADOPT THE RESOLUTIONS IN SUBITEMS A, B, C, D AND E; AND TO INTRODUCE THE ORDINANCE IN SUBITEM F. Second by Faulconer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

MOTION BY MADAFFER TO ADOPT THE RESOLUTION IN SUBITEM G. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-332: Request to Bid Installation of Traffic Signals at Six Downtown Intersections-Areawide. (District 2.)

(See Centre City Development Corporation's Report No. CCDC-08-33/CCDC-08-20.)

CENTRE CITY DEVELOPMENT CORPORATION'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-411) ADOPTED AS RESOLUTION R-304298

Finding and determining that the installation of six traffic signals will benefit the Centre City Redevelopment Project or the immediate neighborhood in which the Project is located;

Declaring that no other reasonable means of financing the installation of the six traffic signals is available to the community;

Declaring that the payment of funds will assist in improving pedestrian/vehicular safety, and improved pedestrian/vehicular traffic flows inside the Project Area;

Declaring that the Project is consistent with the Implementation Plan adopted for the Project Area pursuant to Health and Safety Code 33490;

Declaring that all of the findings set forth herein above are more fully described in the Findings of Benefit attached hereto as Attachment "A" and incorporated herein by this reference;

Declaring that this activity is categorically exempt from review under the California Environmental Quality Act (CEQA), Class 1 pursuant to CEQA Guidelines Section 15301.

SUPPORTING INFORMATION:

The Corporation proposes to install traffic signals at the following six Downtown intersections:

- Front and Cedar Streets;
- Market and Union Streets;
- Market Street and Third Avenue;
- Market Street and Ninth Avenue;
- Park Boulevard and Island Avenue; and
- Park Boulevard and J Street.

Each of the intersections is experiencing increased vehicle and pedestrian flows. In the growing Downtown neighborhoods, it is becoming increasingly difficult for pedestrians to cross busy streets safely. Based on public input and requests for safe intersections for pedestrian traffic, staff has identified the six locations above as prime locations for traffic signal installation.

FISCAL CONSIDERATIONS:

Agency funds in the amount of \$407,058 are available in the Fiscal Year 2009 ("FY 09") Cortez Budget for traffic signals; \$596,354 in the FY 09 Marina Budget for traffic signals; and \$759,588 in the FY 09 East Village Budget for traffic signals, for a total amount of \$1,763,000.

CENTRE CITY DEVELOPMENT CORPORATION RECOMMENDATION:

On September 24, 2008, the Corporation unanimously approved the proposed Project.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On March 19, 2008, the proposed Project was unanimously approved by the Centre City Advisory Committee as part of the FY 08-09 Budget for Redevelopment Projects administered by the Corporation.

Yee/Kaiser/Anderson

NOTE: See the Redevelopment Agency Agenda of October 21, 2008, for a companion item.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:35 p.m. – 2:36 p.m.)

MOTION BY FAULCONER TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-333: First Amendment to Amended Cooperation Agreement with the Redevelopment Agency for 252 Corridor Park Improvements Phase II Project. (Southeastern San Diego Community Area. District 8.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-27) ADOPTED AS RESOLUTION R-304299

Declaring that making the necessary findings of benefit to the 252 Corridor Park Improvements - Phase II work (Project), as provided in the First Amendment to the Amended Cooperation Agreement, will be of benefit to the Southcrest Redevelopment Project Area, that there are no other reasonable means of financing the improvements, that the improvements will assist in the elimination of blight, and that the Project is consistent with the implementation plan;

Authorizing the Mayor, or his representative, to execute the First Amendment to Amended Cooperation Agreement between the City of San Diego and the Redevelopment Agency of the City of San Diego, for 252 Corridor Park Improvements - Phase II, under the terms set forth in the Agreement;

Authorizing the Mayor, or his representative, to take all necessary actions to secure funding from the Redevelopment Agency of the City of San Diego, for this Project;

Authorizing the City Auditor and Comptroller to establish a special interest-bearing fund in Fund 10267, RDA Contributions - SC, for the deposit of the Redevelopment Agency funding;

Authorizing the City Auditor and Comptroller to accept an amount not to exceed \$1,600,000 from the Redevelopment Agency, into Fund 10267, RDA Contributions - SC;

Authorizing the addition of CIP-29-970.0, 252 Corridor Park Improvements - Phase II, to the Fiscal Year 2008 Capital Improvements Program;

Authorizing an increase in the amount of \$1,600,000 in the Fiscal Year 2008 Capital Improvements Program Budget in CIP-29-970.0, 252 Corridor Park Improvements - Phase II, Fund No. 10267, RDA Contributions-SC;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed \$1,600,000 from CIP-29-970.0, 252 Corridor Park Improvements - Phase II, Fund No. 10267, RDA Contributions-SC, for the purpose of design and construction of improvements at the 252 Corridor Park;

Declaring that this activity is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15061(b)(3). This action authorizes the Mayor to execute a contribution agreement with the Redevelopment Agency of the City of San Diego. This action also authorizes the transfer of funds from the Redevelopment Agency of the City of San Diego to the City of San Diego. Any future activity involving construction associated with this action will be subject to a separate environmental review as required by CEQA.

STAFF SUPPORTING INFORMATION:

252 Corridor Park Phase I is located at 1375 Rigel Street, in the community of Southcrest, located in the Southeastern San Diego Community Planning Area. In 2003, the Southeastern Economic Development Corporation (SEDC), on behalf of the Redevelopment Agency of the City of San Diego (Agency), deeded approximately 8.547 acres of land to the City of San Diego as part of a Cooperation Agreement. SEDC, through the Redevelopment Agency, also provided \$500,000 to the City at that time for development of Phase I Park Improvements.

Phase I Park Improvements were completed and opened to the public in May 2006 and comprise approximately 2.72 acres. Amenities constructed in Phase I include: a comfort station, children's play areas, benches, picnic areas with barbeques, a parking lot, a jogging trail with exercise stations, and a pedestrian bridge over Chollas Creek leading to the Phase II area of the park.

Phase II Park Improvements will comprise approximately 5.827 acres. SEDC and the City have determined that a mix of active uses and passive uses is appropriate for Phase II of the park. Of the total 5.827 acres available for Phase II, a portion of the site has been developed as the Chollas Creek enhancement/revegetation area, and is available for passive park use. The remaining acreage remains useable and developable for active park use.

Specific project amenities for active use areas in Phase II of the park may include picnic shelters, children's play areas, walkways, fencing, an amphitheater, open turf areas, security lighting, and other site furnishings or amenities.

Specific project amenities in passive use areas of the park may include, but are not limited to, additional revegetation areas along Chollas Creek, interpretive signage, viewing platforms and split rail fencing. Final park amenities will be determined through a public input process pursuant to Council Policy 600-33, Community Notification and Input for City-Wide Park Development Projects.

FISCAL CONSIDERATIONS:

The 252 Corridor Park Improvements - Phase II project funding is \$1,600,000, to be authorized by the execution of the First Amendment to Amended Cooperation Agreement between the City of San Diego and the Redevelopment Agency of the City of San Diego. This funding is identified for design and construction of Phase II of the project. Project funding for Phase II Park Improvements will be added to CIP-29-970.0, 252 Corridor Park Improvements - Phase II, in phases pursuant to the First Amendment to Amended Cooperation Agreement.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

252 Corridor Park Improvements - Phase I:

- April 11, 2000, Council Action accepting \$500,000 from SEDC for development of Phase I of the park, Resolution R-292980.
- December 8, 2003, Council Action authorizing the application for the State grant for \$2,500,000, Resolution R-298701.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Informal presentations have been made to the Southcrest Recreation Council and St. Judes Organizing Committee. However, the park design process will be consistent with Council Policy 600-33, Community Notification and Input for City-Wide Park Development Projects.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Key stakeholders include the community of Southcrest, the Southcrest Recreation Council, and the Southeastern Economic Development Corporation.

FINDINGS OF BENEFIT:

The Findings of Benefit are contained in Attachment One (1).

Anderson

Staff: Deborah Sharpe - (619) 525-8261
Shannon Thomas - Deputy City Attorney

NOTE: See the Redevelopment Agency Agenda of October 21, 2008, for a companion item.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:34 p.m. – 2:35 p.m.)

MOTION BY HUESO TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-S500: Ocean View Village, Project No. 96580. Site Development Permit, Vesting Tentative Map and Rezone to construct 143 residential units, 40 commercial units and 24 industrial units, on a 10.4 acre site located at 996 Otay Valley Road. (Otay Mesa Community Plan Area. District 8.)

Matter of approving, conditionally approving, modifying or denying a Site Development Permit, Vesting Tentative Map and Rezone to construct 143 residential units, 40 commercial units and 24 industrial units, on a 10.4-acre site located at 996 Otay Valley Road. The Site Development Permit is for Steep Hillsides, Sensitive Biological Resources and seven Deviations to development

regulations for Affordable Housing. The Vesting Tentative Map is for a subdivision for condominium construction. The site was previously regulated under CUP 88-0498 as an Auto Dismantling Center. The property proposes redevelopment from this auto dismantling use to the approved land uses. The project was reviewed in the Affordable Housing Expedite Program and will provide 15 of the residential units as affordable in accordance with the Inclusionary Housing Ordinance.

The project is located in the AR-1-1 Zone, Airport Influence Area, and Airport Environs Overlay Zone, of the Otay Mesa Community Plan. The Rezone is to change the AR-1-1 Zone to RM-2-4, CN-1-2 and IL-2-1 in accordance with the adopted Robinhood Ridge Precise Plan and Community Plan.

(Continued from the meetings of October 6, 2008, Item 201, and October 14, 2008, Item S500; last continued at the request of Councilmember Hueso, for further review).

STAFF'S RECOMMENDATION:

Adopt the following resolutions in Subitems A, B and C; and introduce the ordinance in Subitem D:

Subitem-A: (R-2009-315) CONTINUED TO MONDAY,
DECEMBER 1, 2008

Adoption of a Resolution certifying that the information contained in Addendum to Environmental Impact Report No. 98-0189, on file in the Office of the City Clerk, has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code Section 21000 et seq.), as amended, and the State guidelines thereto (California Code of Regulations Section 15000 et seq.), that the report reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in said report, together with any comments received during the public review process, has been reviewed and considered by this Council in connection with the approval of a Rezone Ordinance, Site Development Permit, and Vesting Tentative Map for Ocean View Village project;

Declaring that pursuant to California Public Resources Code Section 21081 and California Code of Regulations Section 15091, the City Council adopts the findings made with respect to the project, a copy of which is on file in the Office of the City Clerk;

Declaring that pursuant to California Code of Regulations Section 15093, the City Council adopts the Statement of Overriding Considerations, a copy of which is on file in the Office of the City Clerk and incorporated herein by reference, with respect to the project;

Declaring that pursuant to California Public Resources Code Section 21081.6, the City Council adopts the Mitigation Monitoring and Reporting Program, or alterations to implement the changes to the project as required by this body in order to mitigate or avoid significant effects on the environment, a copy of which is attached hereto, as Exhibit A, and incorporated herein by reference.

Subitem-B: (R-2009-316) CONTINUED TO MONDAY,
DECEMBER 1, 2008

Adoption of a Resolution certifying the findings, with respect to Site Development Permit No. 320732, which are supported by the minutes, maps and exhibits, all of which are herein incorporated by reference;

Granting Site Development Permit No. 320732 to Melvyn V. Ingalls, Owner/Permitee, sustaining the recommendation of the Planning Commission, under the terms and conditions set forth in the permit attached hereto and made a part hereof.

Subitem-C: (R-2009-317 Cor. Copy 1) CONTINUED TO MONDAY,
DECEMBER 1, 2008

Adoption of a Resolution certifying findings with respect to Vesting Tentative Map No. 314829 which are supported by the minutes, maps and exhibits, all of which are herein incorporated by reference;

Granting Tentative Map No. 314829 to Melvyn V. Ingalls, Applicant/Subdivider, subject to the attached conditions which are made a part of this resolution by this reference.

Subitem-D: (O-2009-41 Cor. Copy) CONTINUED TO MONDAY,
DECEMBER 1, 2008

Introduction of an Ordinance changing 10.4 acres located at 996 Otay Valley Road, within the Otay Mesa Community Plan Area, in the City of San Diego, California, from the AR-1-1 zone into the RM-2-4, CN-1-2 and IL-2-1 zones, as defined by the San Diego Municipal Code Sections 131.0406, 131.0502, 131.0603; and repealing Ordinance No. O-10862 (New Series), adopted June 29, 1972, of the ordinances of the City of San Diego insofar as the same conflicts herewith.

OTHER RECOMMENDATIONS:

Planning Commission on July 24, 2008, voted 5-1-1 to recommend that the City Council certifies Addendum No. 96580 to Environmental Impact Report No. 98-0189; adopt the Mitigation Monitoring and Reporting Program; and approve Site Development Permit No. 320732, Vesting Tentative Map No. 314829 and Rezone Ordinance No. 314830 as presented in Report No. PC-08-085.

Additional recommendations to provide Photovoltaic Panels for either the Residential or Commercial/Industrial area that would meet the Expedite Program requirements of Council Policy No. 900-14, and provide for a reclaimed water service if a reclaimed water service is available in the future.

Ayes: Golba, Naslund, Otsuji, Schultz, Ontai
Nays: Griswold
Not present: Smiley

The Otay Mesa Community Planning Group has recommended approval of this project.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

Approval of a new mixed use development consisting of 143 residential units, 40,678 square feet of commercial, and 37,850 square feet of industrial uses on a 10.4 acre site located at 996 Otay Valley Road, within the Otay Mesa Community planning area.

STAFF RECOMMENDATION:

Recommend that the City Council certify Addendum No. 96580 to Environmental Impact Report No. 98-0189, adopt the Mitigation, Monitoring and Reporting Program; and approve Site Development Permit No. 320732, Vesting Tentative Map No. 314829 and Rezone Ordinance No. 314830.

EXECUTIVE SUMMARY:

The Ocean View Village project is a request for a Site Development Permit, Vesting Tentative Map and Rezone to construct 143 residential units, 40 commercial units and 24 industrial units on a 10.4 acre site located at 996 Otay Valley Road. The project is located in the AR-1-1 Zone, Airport Influence Area, and Airport Environs Overlay Zone, of the Otay Mesa Community Plan. The Site Development Permit is for Steep Hillside, Sensitive Biological Resources and seven Deviations to development regulations for Affordable Housing. The seven Deviations to development regulations are being requested as part of the affordable/in-fill housing and sustainable building regulations for setbacks, street frontage, drive aisle driveway width, retaining wall height, off-street loading spaces, and structure height. The Vesting Tentative Map is for a subdivision for condominium construction. The Rezone is to change the AR-1-1 Zone to RM-2-4, CN-1-2 and IL-2-1 in accordance with the adopted Robinhood Ridge Precise Plan and Community Plan.

The site was previously regulated under CUP 88-0498 as an Auto Dismantling Center. The property proposes redevelopment from this auto dismantling use to the proposed land uses. The project was reviewed in the Affordable Housing Expedite Program and will provide 15 of the residential units as affordable in accordance with the Inclusionary Housing Ordinance.

The project has not been controversial and there were no speaker slips in opposition at either of the two Planning Commission hearings. The project was docketed for Planning Commission on July 17th and trailed to July 24th. The Planning Commission recommended the City Council require two conditions; 1) provide photovoltaic panels (solar energy) on the roof for either the Residential or Commercial/Industrial area that would meet the Sustainable Expedite Program requirements of Council Policy 900-14, and 2) a condition to provide for a reclaimed water service if a reclaimed water service is available in the future.

The owner/applicant recommends an alternative to both of the Planning Commission conditions. There is no current reclaimed water service to the project area; therefore staff could not condition the project to connect to a reclaimed water service at this time. There are no Municipal Code provisions that require projects to install photovoltaic panels. The applicant has volunteered to provide 10% of the residential units as Affordable Housing. As an alternative to the condition to provide a future reclaimed water service, the owner/applicant agrees to provide this service for

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for the Regular Meeting of Tuesday, October 21, 2008**

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landscaping. As an alternative to the condition to provide photovoltaics, the owner/applicant agrees to build the commercial/industrial structures to LEED standards and impose specified sustainable design and development conditions on the residential portion of the project.

FISCAL CONSIDERATIONS:

All staff costs associated with processing this project are recovered from a deposit account maintained by the applicant.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Planning Commission: The Planning Commission recommended the City Council approve the project on July 24, 2008, by a vote of 5-1-1 with two recommendations: 1) The project be required to provide Photovoltaic Panels for either the Residential or Commercial/Industrial area that would meet the Expedite Program requirements of Council Policy 900-14; and 2) Add a Condition to provide for a reclaimed water service if a reclaimed water service is available in the future.

Community Planning Group: The Otay Mesa Community Planning Board voted 13-1-1 on September 20, 2006, to recommend approval of the project, with additional landscape recommendations that were incorporated into the design.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Owner: Melvyn V. Ingalls.

Applicant: M. W. Steele Group, Inc.

Broughton/Anderson/DM

LEGAL DESCRIPTION:

The project site is legally described as the southeast quarter of the southwest quarter of the northeast quarter of Section 29, Township 18 South, Range 1 West, San Bernardino Meridian, County of San Diego.

NOTE: The City of San Diego, as Lead Agency under California Environmental Quality Act (CEQA) and State CEQA Guidelines has prepared and completed Addendum No. 96580 to Environmental Impact Report No. 98-0189, and the Mitigation, Monitoring and Reporting Program (MMRP) covering this activity.

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Staff: Diane Murbach – (619) 446-5042
Marianne Greene – Deputy City Attorney

NOTE: This item is not subject to the Mayor's veto.

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 10:45 a.m. – 10:46 a.m.)

MOTION BY HUESO TO CONTINUE TO MONDAY, DECEMBER 1, 2008, FOR NOTICING PURPOSES. Second by Young. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-not present, Frye-yea, Madaffer-yea, Hueso-yea.

REPORT OUT OF CLOSED SESSION:

To view the list of all available City Council Closed Session Meetings Reports refer to the link below:

<http://www.sandiego.gov/city-clerk/closedsess.shtml>

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 6:49 p.m. – 6:50 p.m.)

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Council President Peters at 6:57 p.m. in honor of the memory of:

George Lin as requested by Council Member Maienschein; and
Victor Player as requested by Council Member Young.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 6:53 p.m. – 6:57 p.m.)

Elizabeth S. Maland, City Clerk
City of San Diego

UNAPPROVED

THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
MONDAY, OCTOBER 20, 2008
AT 2:00 P.M.
IN THE COUNCIL CHAMBERS - 12TH FLOOR

CHRONOLOGY OF THE MEETING:

The meeting was called to order by Council President Peters at 2:08 p.m. Council President Peters recessed the meeting at 2:58 p.m. for the purpose of a break. Council President Peters reconvened the meeting at 3:04 p.m. with all Council Members present. The meeting was adjourned by Council President Peters at 5:56 p.m.

ATTENDANCE DURING THE MEETING:

- (1) Council Member Peters-present
 - (2) Council Member Faulconer-present
 - (3) Council Member Atkins-present
 - (4) Council Member Young-present
 - (5) Council Member Maienschein-present
 - (6) Council Member Frye-present
 - (7) Council Member Madaffer-present
 - (8) Council Member Hueso-present
- Clerk-Maland (sr)

FILE LOCATION: MINUTES

ITEM-1: ROLL CALL

Clerk Maland called the roll:

- (1) Council Member Peters-present
- (2) Council Member Faulconer-present
- (3) Council Member Atkins-present
- (4) Council Member Young-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council Member Hueso-present

FILE LOCATION: MINUTES

ITEM-10: INVOCATION

Invocation was given by Reverend John Demaree of Rolando
United Methodist Church.

FILE LOCATION: MINUTES

ITEM-20: PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Young.

FILE LOCATION: MINUTES

CLOSED SESSION ITEMS:

Conference with Legal Counsel - existing litigation, pursuant to California Government Code Section 54956.9(a):

CS-1 *Deputy City Attorney Association v. City of San Diego*
LA-CE-359

REFERRED TO CLOSED SESSION OF TUESDAY, OCTOBER 21, 2008

DCA Assigned: A. Hersh

The *Deputy City Attorney Association v. City of San Diego* matter is an action filed by the Deputy City Attorney Association for bad faith bargaining and prematurely declaring an impasse. In closed session, the City Attorney will brief the Mayor and the City Council on the status of this matter and request the continued retention of outside counsel to handle this litigation.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:13 p.m. - 2:13 p.m.)

Council President Peters closed the hearing.

CS-2 *Valerie O'Sullivan v. City of San Diego*
San Diego Superior Court Case No. GIC 826918; Court of Appeal Case No. 826918

REFERRED TO CLOSED SESSION OF TUESDAY, OCTOBER 21, 2008

DCA Assigned: G. Schaefer

Following a court trial, a Superior Court Judge rendered a judgment against the City and ordered the City to dredge Children's Pool Beach. The City unsuccessfully appealed the dredging order and the City is in the process of acquiring the necessary federal and state permits to dredge. The City Attorney needs to discuss in closed session with the City Council and the Mayor compliance with the Superior Court's dredging order and related legal issues.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:13 p.m. - 2:13 p.m.)

Council President Peters closed the hearing.

CS-3 *Todd Sabin, Stacy Sabin, Stephen Games, Sandra Games v. City of San Diego*
(San Diego Superior Court Case No. 37-2008-00090721-CU-PA-CTL;
City of San Diego v. Todd Sabin, et al.
San Diego Superior Case No. 37-2008-00081284-CU-OR-CTL)

REFERRED TO CLOSED SESSION OF TUESDAY, OCTOBER 21, 2008

DCA Assigned: M. Dickenson

These matters concern certain property owners' encroachments on a City street and a related settlement agreement resulting from prior litigation. The City Attorney will update the Mayor and City Council on the status of the litigation.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:13 p.m. - 2:13 p.m.)

Council President Peters closed the hearing.

CS-4 *Christopher Stavros v. City of San Diego*
Claim No. LP05-0534-2204

REFERRED TO CLOSED SESSION OF TUESDAY, OCTOBER 21, 2008

DCA Assigned: D. Shanahan

The *Christopher Stavros v. City of San Diego* matter is a non-litigated claim arising out of a failed City storm drain. The failed storm drain caused water intrusion into the lower level of the Stavros residence and also caused severe soil erosion of the slope under and around the residence. In closed session, the City Attorney will brief the Council on this matter and recommend settlement.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:13 p.m. - 2:13 p.m.)

Council President Peters closed the hearing.

Conference with Labor Negotiator, pursuant to Government Code Section 54957.6:

CS-5 Agency Negotiator: Scott Chadwick, Jay Goldstone

Employee Organizations: Municipal Employees Association.

REFERRED TO CLOSED SESSION OF TUESDAY, OCTOBER 21, 2008

DCAs Assigned: A. Hersh/B. Gersten

Conference with Labor Negotiators regarding negotiated settlement of language and remedy contained in City-MEA Memorandum of Understanding, Article 22, Section 2.B.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:13 p.m. - 2:13 p.m.)

Council President Peters closed the hearing.

Conference with Real Property Negotiator, pursuant to California Government Code Section 54956.8:

CS-6 Property: World Trade Center Building, 1250 6th Avenue

Agency Negotiator: Jim Barwick, Director, Real Estate Assets Department

Negotiating Party: Chhatrala Group

Under Negotiation: Price and terms of the sale of City property

REFERRED TO CLOSED SESSION OF TUESDAY, OCTOBER 21, 2008

Discussion of negotiations regarding the sale of the World Trade Center Building and the offers received from The Chhatrala Group (the recommended buyer), Frank Wong and Affirmed Housing.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:13 p.m. - 2:13 p.m.)

Council President Peters closed the hearing.

ITEM-150: Amending the San Diego Municipal Code relating to the Living Wage Ordinance and Contractor Standards.

(See Reports from the City Attorney dated 10/6/2008 and 7/3/2008; 7/3/2008 Power Point; and 7/3/2008 Summary of Living Wage Ordinance.)

TODAY'S ACTIONS ARE:

Introduce the ordinance in Subitem A; and introduce one of the alternate ordinances in Subitem B:

Subitem-A: (O-2009-49 Cor. Copy)

INTRODUCED AS AMENDED,
TO BE ADOPTED MONDAY,
NOVEMBER 10, 2008

Introduction of an Ordinance amending Chapter 2, Article 2, Division 32 of the City of San Diego Municipal Code by amending Section 22.3224 relating to Contractor Standards. These amendments are designed to enhance the effectiveness of the City's various Ordinances related to contracting by establishing procedures for public determinations of non-responsibility and other mechanisms for ensuring contractor compliance with all local, state and federal laws.

Subitem-B: (O-209-50-a Cor. Copy)

INTRODUCED AS AMENDED,
TO BE ADOPTED MONDAY,
NOVEMBER 10, 2008

Introduction of an Ordinance amending Chapter 2, Article 2, Division 42 of the San Diego Municipal Code by amending Sections 22.4205, 22.4215, 22.4225, 22.4230, and 22.4235 relating to the Living Wage Ordinance. The City's Living Wage Ordinance has been in force since 2005, and the Council has studied its implementation. The Budget and Finance Committee has held multiple hearings on Living Wage Ordinance implementation issues, and has forwarded proposed revisions for consideration of the full Council. These amendments are designed to enhance enforcement and clarify provisions of the Living Wage Ordinance, in order to advance the purposes it was intended to serve. This Ordinance would generally remove all service workers in professional fields from the professional services exemption.

OR

Subitem-B: (O-209-50-b Cor. Copy)

NOTED AND FILED

Introduction of an Ordinance amending Chapter 2, Article 2, Division 42 of the San Diego Municipal Code by amending Sections 22.4205, 22.4215, 22.4225, 22.4230, and 22.4235 relating to the Living Wage Ordinance. The City's Living Wage Ordinance has been in force since 2005, and the Council has studied its implementation. The Budget and Finance Committee has held multiple hearings on Living Wage Ordinance implementation issues, and has forwarded proposed revisions for consideration of the full Council. These amendments are designed to enhance enforcement and clarify provisions of the Living Wage Ordinance, in order to advance the purposes it was intended to serve. This Ordinance would specifically remove paramedic and emergency medical technicians from the professional services exemption.

BUDGET AND FINANCE COMMITTEE'S RECOMMENDATION:

On 7/9/2008, Budget voted 4 to 0 to forward the City Attorney's Report with recommendations A, B, and C to the full City Council for further discussion. Also, direct the City Attorney's Office to begin analysis on Redevelopment Agency impacts and report back to the Budget and Finance Committee at a later date.

In addition, request the City Attorney's Office to provide a full analysis and draft an Ordinance that incorporates Center on Policy Initiative's proposal regarding enforcement of the Living Wage Ordinance and Contractor's Standards as part of the San Diego Municipal Code and to specifically include:

1. A comprehensive analysis of economic impact;
2. The role of the Internal Auditor;
3. Input from stakeholders and contractors that currently do business with the City;
4. An analysis and impact of including the Civic Theatre;
5. An analysis and impact of including Emergency Medical Services; and
6. An analysis from the Independent Budget Analyst and Mayor's Office.

(Councilmembers Faulconer, Atkins, Frye, and Madaffer voted yea. Councilmember Hueso not present.)

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 3:04 p.m. - 5:31 p.m.)

MOTION BY ATKINS TO INTRODUCE THE ORDINANCE IN SUBITEM A BY AMENDING SECTION 22.3224 RELATING TO THE CONTRACTOR STANDARDS AS AMENDED BY CHANGING FROM AUDIT COMMITTEE TO BUDGET COMMITTEE IN SECTION 22.3224(F); AND TO INTRODUCE THE ORDINANCE IN SUBITEM B WITH THE FOLLOWING ADDITIONAL AMENDMENTS: UNDER SECTION 22.4205, UNDER THE DEFINITION OF "CITY FACILITY AGREEMENT," RESTORE THE 90 DAYS VERSUS THE 30 DAYS LISTED. ADD LANGUAGE TO SECTION 22.4215 (7) FOLLOWING THE WORDS "CONTRACTS FOR," ADD "PROFESSIONAL SERVICES, AS DESCRIBED IN CALIFORNIA LABOR CODE SECTION 515 (A)," AND DELETE THE PORTION THAT SAYS, "THIS EXTENSION SHALL NOT BE INTERPRETED TO EXEMPT NONPROFESSIONALS PROVIDING SUPPORT SERVICES TO PROFESSIONALS UNDER SUCH CONTRACTS TO THE EXTENT SUCH NONPROFESSIONALS WOULD OTHERWISE BE ENTITLED TO RECEIVE THE WAGES REQUIRED BY THE DIVISION." THAT WHOLE SECTION WOULD BE DELETED SO THAT WHAT YOU HAVE LEFT IS, "CONTRACTS FOR PROFESSIONAL SERVICES AS DESCRIBED IN CALIFORNIA LABOR CODE SECTION 515 (A) SUCH AS DESIGN, ENGINEERING, FINANCIAL, TECHNICAL, LEGAL, BANKING, MEDICAL, MANAGEMENT, OPERATING, ADVERTISING, OR OTHER SERVICES." SO, WE ALSO DELETED THE WORD "PROFESSIONAL." ADD SECTION (E) TO SECTION 22.4225 UNDER "REPORTING AND NOTIFICATION,"

"BUSINESSES SHALL POST A NOTICE TO EMPLOYEES INFORMING THEM OF THEIR RIGHTS UNDER THIS DIVISION AND ANY APPLICABLE EXEMPTIONS FROM THE WAGE RATES. THE POSTER MUST BE AT THE SITE OF WORK OR A SITE FREQUENTLY ACCESSED BY WORKERS IN A PROMINENT AND ACCESSIBLE PLACE WHERE IT CAN EASILY BE SEEN BY WORKERS." ADD LANGUAGE TO SECTION 22.4230(C) FOLLOWING THE WORD "REQUIREMENTS." "AND SHALL CONVEY THE RESULTS OF THE INVESTIGATION TO COMPLAINANT WITHIN 60 DAYS WITH REASONABLE 30 DAY EXTENSIONS." IN SECTION 22.4225(D), THE "REPORTING AND NOTIFICATION REQUIREMENTS," DELETE THE FOLLOWING LANGUAGE, "AT A MINIMUM THE REPORT SHALL INCLUDE EACH COVERED EMPLOYEE'S NAME, ADDRESS, DATE OF HIRE, JOB CLASSIFICATION, RATE OF PAY, COST AND AMOUNT PAID FOR HEALTH BENEFITS, HOURS WORKED IN EACH PAY PERIOD, AND PAID AND UNPAID TIME OFF (ACCRUED AND USED.)" AMEND TO SECTION 22.4225(D) TO READ, "THE COVERED EMPLOYER WILL MAINTAIN RECORDS DOCUMENTING COMPLIANCE FOR THREE YEARS, NOT TO EXCEED SEVEN YEARS, AFTER THE CITY'S FINAL PAYMENT IN THE CONTRACT AND SHALL BE MADE AVAILABLE TO THE CITY UPON REQUEST. THE RECORDS TO BE MAINTAINED SHALL INCLUDE ALL WAGE RECORDS, PROOF OF PAYMENT FOR HEALTH BENEFITS AND EMPLOYEE NAME, ADDRESS, DATE OF HIRE, JOB CLASSIFICATION, RATE OF PAY, COST AND AMOUNT PAID FOR HEALTH BENEFITS, HOURS WORKED IN EACH PAY PERIOD, AND PAID AND UNPAID TIME OFF (ACCRUED AND USED.)" THE AMENDMENTS TO SECTION 22.4230 REGARDING ENFORCEMENT SHALL TAKE EFFECT AND BE IN FORCE ON THE 30TH DAY FROM AND AFTER ITS FINAL PASSAGE. THE REMAINDER OF THE AMENDMENTS SHALL TAKE EFFECT AND BE IN FORCE ON JANUARY 1, 2010. IN "ENFORCEMENT," SECTION 22.4230, THE PART THAT SAYS, "HOWEVER, CITY'S FAILURE TO INVESTIGATE AN ALLEGED VIOLATION OR OTHERWISE ENFORCE ANY OF THE PROVISIONS OF THIS DIVISION SHALL NOT CREATE ANY RIGHT OF ACTION OR RIGHT TO RECOVER DAMAGES," REMOVE, "OR RIGHT." EXTEND THE 10 DAY RESPONSE PERIOD TO 30 DAYS. DIRECT THE CITY ATTORNEY'S OFFICE TO OPINE IN WRITING TO MR. HAHN AND THE CITY COUNCIL AS TO THE REASONS THAT THE SPORTS ARENA WAS INCLUDED WITHIN 30 DAYS. DIRECT THAT THE ISSUE OF RAISING TICKET PRICES BE RAISED IN CONJUNCTION WITH THE RENEWAL OF THE CONTRACT FOR THE CIVIC

CENTER IN 2009. REMOVE SECTION 22.4230(G) AND REFER THE RELATED ISSUES OF COST RECOVERY AND THE IDEA OF AN EMPLOYEE ORIENTATION PROGRAM DISSEMINATING INFORMATION TO EMPLOYEES THAT IS PERTINENT TO THE CONTRACT BACK TO THE BUDGET COMMITTEE AND FINANCE COMMITTEE. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-200: Ordering Foreclosure Actions Against Delinquent Parcels of Land. (Black Mountain Ranch and Otay Mesa Community Areas. Districts 1 and 8.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-442) ADOPTED AS RESOLUTION R-304266

Finding that the Mello-Roos Act, the 1915 Act, and the 1984 Act, authorizes the filing of judicial foreclosure lawsuits to collect delinquent special tax special assessment installments, and hereby orders that the delinquent special tax and special assessment installments listed on Exhibit A, and all future delinquent special tax and special assessment installments as to such parcels, be collected by action brought in the appropriate Superior Court to foreclose the liens thereof;

Finding that the Mello-Roos Act, the 1915 Act, and the 1984 Act, provides for the payment of the costs and attorneys fees for prosecution of the foreclosure lawsuits authorized by the Council, and hereby authorizes Special Counsel to require payment of all costs and all attorneys fees incurred in the applicable foreclosure lawsuit as a condition of such redemption;

Authorizing and directing City personnel in conjunction with Special Counsel and other City consultants to: 1) record applicable notices of intent to remove the delinquent special tax and assessment installments from the tax rolls, and 2) request that the County Auditor remove current and future delinquent special tax and assessment installments from the tax rolls.

STAFF SUPPORTING INFORMATION:

Certain property owners have become delinquent with respect to the payment of special taxes or assessments associated with Reassessment District 1999-1, Assessment District No. 4096 (Piper Ranch), and Community Facilities District No. 2 (Santaluz)-Improvement Area No. 1. Bonds have been issued in connection with these districts, and such bonds are secured solely by special taxes or assessments levied upon individual properties within the districts. The City is compelled under the bond covenants contained within the bond financing documents authorized in connection with the districts to commence foreclosure actions against delinquent parcels when certain thresholds are reached, as set forth in the bond documents.

The delinquent amounts for each of the parcels listed below and subject to this proposed action have exceeded the delinquency thresholds established under the applicable bond documents.

Special District	Assessor's Parcel No.	Tax Year Periods ⁽¹⁾	No. of Delinquent Installments	Total Delinquent Amount ⁽²⁾
Reassessment District No. 1999-1	646-180-37-00	2006-2008	6	\$13,781.89
Assessment District No. 4096 (Piper Ranch)	646-240-57-00	2006-2008	4	\$13,735.54
CFD No. 2 (Santaluz)	269-232-03-00	2006-2008	4	\$14,054.12
Improvement Area No. 1	303-114-40-00	2006-2008	3	\$10,461.76
TOTAL				\$52,033.31

(1) A Tax Year Period is from July 1, to June 30, and consists of two installment payment deadlines: December 10, and April 10.

(2) Total Delinquent Amounts do not include late payment penalties.

The City has provided each property owner of record of the subject parcels with delinquency notices and has advised each property owner of the City's intention to begin the foreclosure process if payment is not forthcoming. Delinquent amounts remain outstanding for each parcel; therefore, approval of this proposed action to order the filing of a judicial foreclosure lawsuit against each such parcel is recommended. If approved, the City in conjunction with outside foreclosure counsel (or, if no outside foreclosure counsel is available, the City Attorney's Office) would file the appropriate judicial foreclosure lawsuits and take such other associated actions necessary to collect the delinquent special taxes or assessments. A foreclosure lawsuit is terminated at any time before a parcel is sold at a judicial foreclosure sale so long as the delinquent amounts, penalties, and attorneys fees are paid.

FISCAL CONSIDERATIONS:

There will be no fiscal impact to the City as a result of this action. However, this action will facilitate recovery of the delinquent amounts to the Debt Service Funds of the subject districts. All costs related to the foreclosure actions would be reimbursed as part of the delinquency recovery or would be funded by the City's Special Assessment District Delinquency Fund.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

None related to this proposed action. However, the City Council has approved similar actions in the past, most recently Resolution R-303298, dated January 18, 2008, approving foreclosure lawsuits involving other previously delinquent parcels of land within certain of the City's Assessment Districts.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

No outreach required to the general public. However, as described above, subject property owners have been provided with notices regarding their delinquent status and advising them of the City's intention to begin the foreclosure process if payment is not forthcoming.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

- Property owners within the above referenced districts who are delinquent in the payment of the associated special taxes or assessments and therefore subject to this foreclosure action.
- Other property owners within Community Facilities District No. 2 (Santaluz) Improvement Area No. 1 whose annual special taxes could potentially be increased to cover the delinquencies, as contemplated under the Mello-Roos Community Facilities Act of 1982.

- Investors who hold the associated bonds of the districts who receive principal and interest payments on the bonds payable from the annual special taxes or assessments. The City has covenanted with the bondholders, through the bond documents, to foreclose on properties when delinquent amounts meet certain established thresholds.

Kommi/Lewis

Staff: Alex Bragado - (619) 533-6477
Brant C. Will - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 5:48 p.m. – 5:52 p.m.)

MOTION BY HUESO TO ADOPT. Second by Peters. Passed by the following vote:
Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea,
Madaffer-yea, Hueso-yea.

ITEM-201: Park Boulevard Promenade, Project No. 128148. Application for an Extension of Time for Site Development Permit No. 48083 for a period of three years and, a Stay (“tolling”) on the expiration of Site Development Permit No. 48083 for an additional five-year period (for a total of eight years to expire in April 2015) for the Park Boulevard Promenade Project originally approved by the City Council in April 2004. (Balboa Park Community Plan Area. District 3.)

Matter of approving, conditionally approving, modifying or denying an application for an Extension of Time for Site Development Permit No. 48083 for a period of three years and, a Stay (“tolling”) on the expiration of Site Development Permit No. 48083 for an additional five-year period (for a total of eight years to expire in April 2015) for the Park Boulevard Promenade Project originally approved by the City Council in April 2004. The Park Boulevard Promenade Project included amendments to the Central Mesa Precise Plan and the Balboa Park Master Plan to implement future improvements to Balboa Park including but not limited to a four-level underground parking structure, new Zoo exhibit space, relocation of the historic Carousel and Miniature Train, modifications to historic boundaries and, a new surface parking lot for employees.

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-306) ADOPTED AS RESOLUTION R-304267

Adoption of a Resolution stating for the record the approval of the extension of time and the stay on the expiration of Site Development Permit (SDP) No. 48083 is a subsequent discretionary approval of the Project addressed in Environmental Impact Report (EIR) No. 99-0031 and therefore not a separate project under the California Environmental Quality Act (CEQA) Guideline Section 15060(c)(3);

Declaring that the information contained in EIR No. 99-0031, including any comments received during the public review process, has been previously reviewed and considered by this City Council and it is determined that this subsequent discretionary approval of the extension of time and stay on the expiration of SDP No. 48083 does not involve change in circumstances, project changes, or new information of substantial importance which would warrant any additional environmental review;

Declaring that a three-year extension of time for SDP No. 48083, as originally approved and without any new conditions, will not place the occupants of the Project site or the immediate community in a condition dangerous to their health or safety and no new condition is required to comply with state or federal law;

Declaring that no further City Council action is necessary to permit the City to lift the stay on the expiration of SDP No. 48083 on April 13, 2015;

Granting the three year extension of time on SDP No. 48083, to begin on April 13, 2007, and end on April 13, 2010, and granting a subsequent five-year stay on the expiration of SDP No. 48083, to begin on April 6, 2010, and end on April 13, 2015.

OTHER RECOMMENDATIONS:

Planning Commission recommendation was not required.

The Balboa Park Committee has been notified of this project and has not submitted a recommendation. The chair of the community planning group requested the applicant present the project as an information item only on August 7, 2008.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

Extension of Time and a request to stay (toll) the expiration date for a total of seven years for the approved Site Development Permit for the Park Boulevard Promenade Project.

STAFF RECOMMENDATION:

Adopt a resolution to approve the Extension of Time request and to stay (toll) the expiration date for the Park Boulevard Promenade project for a seven year period.

EXECUTIVE SUMMARY:

The Zoological Society of San Diego has requested that City Council consider a resolution to allow an Extension of Time for an approved Site Development Permit to April 13, 2010, and a request to stay (toll) the Site Development Permit for an additional five year period to April 13, 2015. The Park Boulevard Promenade Project consists of expansions to the San Diego Zoo and modifications to public areas within the North Prado area of the Central Mesa Precise Plan of Balboa Park. The property is owned by the City of San Diego and leased to the Zoological Society.

The proposed improvements include additional zoo exhibit space, a landscaped pedestrian promenade and greenbelt on Park Boulevard, modifications to historic resources and, a four-level, below grade parking structure. The original project approvals consisted of Community Plan Amendments to the Balboa Park Master Plan and the Central Mesa Precise Plan and a Site Development Permit. The Site Development Permit was required for impacts to historic resources, specifically, the relocation of two historically designated structures, the miniature train and the carousel, and for modifications to the boundaries of an historic district. The project was approved by the City Council on April 13, 2004. No portion of the development has been initiated therefore, the Site Development Permit expired 36 months after the approval date on April 13, 2007. The Plan Amendments do not expire.

Toward the end of the Park Boulevard Promenade entitlement process, the Park and Recreation Department received funding to begin a study of parking space needs in Balboa Park entitled *The Balboa Park Land Use, Circulation and Parking Study*. This proposal was initiated by the Planning Commission in November 2004. In light of the timing of this endeavor, the City Council determined that the Park Boulevard Promenade project should be approved with conditions that the project not be implemented until such time as the Study was completed and a broader financing plan was approved for a comprehensive range of park improvements that were identified in the Study including the Park Boulevard Promenade project (Reference Attachment 1 Site Development Permit No. 48083, Page 019375, Standard Requirement No. 1, and

Attachment 2, Community Plan Amendment Resolution No. 299084, Page 2 of 3). As a result of these conditions, the Zoological Society is precluded from utilizing the permit and implementing the project until a park-wide financing plan is approved by the City Council.

San Diego Municipal Code Section 126.0111 stipulates that one Extension of Time may be granted by a decision maker for a maximum of three years provided that two findings can be made:

1. That the project as originally approved and with no new conditions, would not place the occupants of the proposed development or the immediate community in a condition dangerous to their health or safety, and there are no new conditions required to comply with state or federal law.
2. The requested Extension of Time is consistent with these findings. Staff also supports the request to allow the stay (tolling) of the Site Development Permit for the additional five-year period.

This requested resolution is adequately addressed in the environmental document and there is no change in circumstance, additional information, or project changes to warrant additional environmental review. Therefore, the activity is not a separate project for purposes of the California Environmental Quality Act (CEQA) review pursuant to State CEQA Guidelines Section 15060(c)(3).

FISCAL CONSIDERATIONS:

All costs associated with the processing of this project are recovered by a deposit account maintained by the applicant.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On August 7, 2008, the Balboa Park Committee heard the request as an information item.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

The Zoological Society of San Diego, Permittee.

Broughton/Anderson

Staff: Sandra Teasley – (619) 446-5271
Shirley R. Edwards – Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 5:31 p.m. – 5:48 p.m.)

Testimony in opposition by Julianne Peters-Hyde and Jay Hyde.

Testimony in Opposition by Neil Hyytinen.

MOTION BY ATKINS TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-202: Verizon Murphy Canyon. Appeal of the Planning Commission's July 10, 2008, decision to approve an existing 55-foot high monopole (with antennas reaching 65-feet tall) with conditions requiring that the monopole be retrofitted as a faux palm tree or "monopalm" stealth wireless facility. This structure supports wireless communication antennas and is located at 9323 Chesapeake Drive. (Kearny Mesa Community Plan Area. District 6.)

Matter of the appeal by John Bitterly, the Planning Consortium, Inc., agent for Verizon Wireless of the Planning Commission's decision of July 10, 2008, in approving an application for a Planned Development Permit (PDP) and a Conditional Use Permit (CUP) for an existing 55-foot high monopole that was previously permitted with CUP No. 96-0172, approved by the Planning Commission on May 30, 1996. The facility is located at 9323 Chesapeake Drive, in the Kearny Mesa Community Plan Area.

The Planning Commission approved this Project, with conditions requiring that Verizon Wireless retrofit the pole to resemble a "monopalm" stealth wireless facility.

(See Report to Planning Commission No. PC-08-067/Conditional Use Permit No. 379109/Planned Development Permit No. 542264/Project No. 112854.)

STAFF'S RECOMMENDATION:

Take the following actions:

Subitem-A: (R-2009-) CONTINUED TO MONDAY, JANUARY 12, 2009

Granting or denying the appeal and granting or denying Conditional Use Permit CUP No. 379109, with appropriate findings to support Council action;

Directing the City Attorney to prepare the appropriate resolutions according to Section 40 of the City Charter.

Subitem-B: (R-2009-) CONTINUED TO MONDAY, JANUARY 12, 2009

Granting or denying the appeal and granting or denying Planned Development Permit (PDP) No. 542264, with appropriate findings to support Council action;

Directing the City Attorney to prepare the appropriate resolutions according to Section 40 of the City Charter.

OTHER RECOMMENDATIONS:

Planning Commission on July 10, 2008, voted 4-1-2, to approve with conditions to retrofit the existing monopole as a faux palm tree, or "monopalm."

Ayes: Naslund, Ontai, Otsuji, Golba

Nay: Schultz

Not present: Griswold, Smiley

The Kearny Mesa Planning Group has recommended approval of this project.

STAFF SUPPORTING INFORMATION:**REQUESTED ACTION:**

Appeal of the decision of the Planning Commission approving an existing 65-foot tall monopole supporting wireless communication antennas at 9323 Chesapeake Drive within the Kearny Mesa Community Planning Area.

STAFF RECOMMENDATION:

DENY the appeal and **DENY** Conditional Use Permit No. 379109 and Planned Development Permit No. 542264.

EXECUTIVE SUMMARY:

Verizon Wireless was issued a Conditional Use Permit in 1996 to construct and operate a monopole with communication antennas. The approval was issued for a period of 10 years. After the 10 years, Verizon was required to apply for a new permit, subject to the current regulations in effect. Verizon is proposing no changes to the existing 65 feet tall monopole antenna structure, however the facility no longer complies with the Communication Antenna Regulations of the Land Development Code, Section 141.0405.

This project requires the processing of both a Conditional Use Permit (CUP), because this is a "Major Telecommunications Facility," and a Planned Development Permit (PDP), because a portion of the structure encroaches into the side setback. Staff cannot make the findings for either the CUP or the PDP and is recommending denial of this project.

Verizon has numerous monopole communication antenna facilities throughout the City. While these facilities are important linkages as part of Verizon's existing network, time limits were imposed on the CUP's associated with these facilities, because of improvements to the technology. Today new technology exists to better integrate these facilities into the community by utilizing architecture, landscape material, and other applications. Approval of the monopole as-is would set a precedent for Verizon and other telecommunication providers that these outdated facilities are acceptable to San Diego.

If Verizon submitted a project that complied with today's regulations (LDC 141.0420) and was not in the setback, the facility could be approved as a Process 1, Limited Use, staff-level decision.

The Planning Commission first heard this project June 5, 2008. The Commission continued the item for one month in order to give Verizon an opportunity to comply with the regulations. At the July 10, 2008, hearing, Verizon proposed no changes to the design. As a last attempt to bring the project into compliance, Planning Commission approved the project by adding conditions that the monopole and antennas be retrofitted to resemble a "monopalm" (faux palm tree). Staff would support a monopalm, however strongly recommends that a pole specifically designed as a monopalm be installed; as opposed to retrofitting the existing pole. Existing *retrofitted* monopoles actually have *more* of a visual impact than an originally manufactured monopole.

Verizon decided not to accept the Planning Commission's conditional approval and has appealed that decision to the City Council.

FISCAL CONSIDERATIONS:

Verizon Wireless is the financially responsible party for this project and is paying for costs associated with processing this application. If the project is denied, the City's Neighborhood Code Compliance Division of the Development Services Department would take code enforcement action because the original CUP has expired. The code enforcement action would be funded by the general fund.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

The Planning Commission first heard this item June 5, 2008. The project was continued to July 10, 2008, and conditionally approved.

KEY STAKEHOLDERS:

Verizon Wireless

Broughton/Anderson/AH

Staff: Alexander Hempton – (619) 446-5349

NOTE: This item is not subject to the Mayor's veto.

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:11 p.m. – 2:12 p.m.)

Testimony in favor of the appeal by Donna Erickson, Craig Sherman, and Wayne Bamford.

Testimony in opposition of the appeal by Dave Potter, Dave Umstad, Ted Shaw, and Brooke Peterson.

MOTION BY HUESO TO CONTINUE TO MONDAY, JANUARY 12, 2009, FOR FURTHER REVIEW. Second by Atkins. Passed by the following vote: Peters-recused, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-203: Appeal of Mesa College Amendment, to Site Development Permit 324476 to delete a mitigation requirement for an eastbound left turn lane on Mesa College Drive at Ashford Street. (Clairemont Mesa and Linda Vista Community Plan Areas. District 6.)

Matter of the appeal by the Grandmothers, of the Planning Commission's decision to approve Site Development Permit No. 485233 an amendment to Site Development Permit No. 324476, which modify previously adopted mitigation measures by removing the requirement of a left turn lane on Mesa College Drive at Ashford Street.

(See Report to Planning Commission No. PC-08-023/Site Development Permit (SDP) No. 485233 Amendment to Site Development Permit No. 324476/Addendum to Mitigated Negative Declaration State Clearing House 2005121106/MMRP/Project No. 139300.)

(Continued from the meeting of July 21, 2008, Item 201, and September 15, 2008, Item 202; last continued at the request of Councilmember Frye, for further review.)

NOTE: Hearing open. Testimony taken on 7/21/2008. Hearing open. No testimony taken on 9/15/2008.

STAFF'S RECOMMENDATION:

Take the following actions:

Subitem-A: (R-2009-577) DENIED APPEAL; ADOPTED AS RESOLUTION
R-304268

Granting or denying the appeal and upholding or overturning the decision by the Planning Commission that the City of San Diego as a Responsible Agency, certifies that the information contained in Addendum to Mitigated Negative Declaration State Clearing House No. 2005121106 has been completed in compliance with the California Environmental Quality Act of 1970 and State guidelines, and that said Addendum has been reviewed and considered by the Council and adopting appropriate findings of mitigation, pursuant to California Public Resource Code Section 21081; and adopting Mitigation Monitoring and Reporting Program;

Directing the City Attorney to prepare the appropriate resolutions according to Section 40 of the City Charter.

Subitem-B: (R-2009-595) DENIED APPEAL; GRANTED SITE DEVELOPMENT PERMIT NO. 485233; ADOPTED AS RESOLUTION R-304269

Granting or denying the appeal and upholding and overturning the decision by the Planning Commission in approving the project; and granting or denying Site Development Permit (SDP) No. 485233, with appropriate findings to support Council action;

Directing the City Attorney to prepare the appropriate resolutions according to Section 40 of the City Charter.

OTHER RECOMMENDATIONS:

Planning Commission on March 6, 2008, voted 6-0-1 to approve.

Ayes: Schultz, Grizwald, Ontai, Otsuji, Nasland, Smiley
(One vacancy)

The Clairemont Mesa Community Planning Group has recommended approval of this project.

The Linda Vista Community Planning Group has recommended denial of this project.

STAFF'S SUPPORTING INFORMATION:

REQUESTED ACTION:

Appeal of the Planning Commission's decision to approve Site Development Permit No. 485233 an amendment to Site Development Permit No. 324476, which modified mitigation measures to remove the requirement of a left turn lane on Mesa College Drive at Ashford Street.

STAFF RECOMMENDATION:

Deny the appeal and uphold the Planning Commission's decision to approve Site Development Permit No. 485233.

EXECUTIVE SUMMARY:

On January 8, 2007, the City Council approved Site Development Permit No. 324476 in association with the Mesa College Street Vacation. Subsequent to the City Council's approval of the project, a study determined that implementation of the proposed left turn lane within the existing Mesa College Drive right-of-way would result in substandard lane widths and the removal of the existing curbside parking. Furthermore, it was determined that an expansion of the right-of-way to accommodate standard lane widths would impact the Kearny Mesa High Educational Complex.

In researching the source of the mitigation measure, it was determined that the following language appeared in the revised traffic study, dated September 28, 2005, (Section VIII) that was not included in the April 15, 2005, study.

In order to provide more capacity and improved circulation on Mesa College Drive for the interim and future conditions, it is recommended that the project provide an eastbound left turn lane on Mesa College Drive at Ashford Street. This improvement would increase capacity and safety at this intersection.

This language was carried forward in subsequent traffic study revisions and was also included in subsequent MND's dated June 28, 2006, and September 1, 2006, as a mitigation measure. According to the traffic study prepared for the Mesa College Facilities Master Plan by Darnell & Associates, dated June 27, 2006, the intersection of Mesa College Drive and Ashford Street currently operates and will continue to operate at Level of Service "A" during both AM and PM peak hours. The analysis includes data for existing and future conditions with and without the parking structure project.

Also, according to the traffic study, Mesa College Drive between Armstrong Street and Ashford Street currently operates as Level of Service "B" under existing conditions. The roadway segment is expected to operate at Levels of Service "B" and "C" in the 2010 and 2030 scenarios with or without the proposed parking structure.

The San Diego Community College District and City staff concur that the mitigation measure could be deleted from the MND and the MMRP based on the analysis in the traffic study using the City's CEQA thresholds for significant impacts.

On March 6, 2008, the Planning Commission voted to approve Site Development Permit No. 485233, an amendment to Site Development Permit No. 324476 and modify the mitigation to remove the requirement of a left turn lane on Mesa College Drive at Ashford.

On March 17, 2008, the Planning Commission's decision was appealed by the "Grandmothers" on the basis of new or different impacts not reviewed or considered by the environmental document.

FISCAL CONSIDERATIONS:

All costs associated with the project including this appeal are being paid for by the applicant, the San Diego Community College District.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

On January 8, 2007, the City Council approved Site Development Permit No. 324476, a Multi-Habitat Planning Area Boundary Line Adjustment, Street Vacation of the western end of Mesa College Drive and the sale of 2.69-acres of land to the San Diego Community College District to construct a parking garage.

On March 6, 2008, the Planning Commission voted to approve Site Development Permit No. 485233.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On October 16, 2007, the Clairemont Mesa Planning Committee voted 10-3-0 to recommend approval of the amendment to delete the requirement for a dedicated left turn lane.

On November 26, 2007, the Linda Vista Planning Committee voted 9-2-1 to recommend denial of the amendment to delete the mitigation requirement, however specific reasons were not provided in their meeting.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

The San Diego Community College District, Students of Mesa College, the Clairemont Mesa and Linda Vista Communities, Kearny Villa Park, Kearny Mesa High Educational Complex, and the City of San Diego.

Broughton/Anderson/HD

NOTE: Stating for the record that the City of San Diego as the responsible agency under the California Environmental Quality Act (CEQA) has reviewed and considered the Addendum to Mitigated Negative Declaration prepared by the City of San Diego Community College District, and recommend adopting the Mitigation, Monitoring and Reporting Program.

LEGAL DESCRIPTION:

The project site is located at the head of a canyon at the western terminus of Mesa College Drive, south of the Mesa College campus proper, and north of Kearny Mesa Park in the Clairemont Mesa and Linda Vista communities in the City of San Diego.

Staff: Helene Deisher - (619) 446-5223

NOTE: This item is not subject to the Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:13 p.m. – 2:58 p.m.)

MOTION BY FRYE TO DENY THE APPEAL AND UPHOLD THE PLANNING COMMISSION'S DECISION TO APPROVE SITE DEVELOPMENT PERMIT NO. 485233. Second by Faulconer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

REPORT OUT OF CLOSED SESSION:

None.

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Council President Peters at 5:56 p.m. in honor of the memory of:

Gary Glover at the request of Council Member Faulconer; and
Frederico Borjas at the request of Council Member Hueso.

000484 :

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FILE LOCATION:

AGENDA

COUNCIL ACTION:

(Time duration: 5:52 p.m. – 5:56 p.m.)

Elizabeth S. Maland, City Clerk
City of San Diego